

**STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
OFFICE OF CONSERVATION AND COASTAL LANDS
Honolulu, Hawai'i**

March 10, 2023

**Board of Land and Natural Resources
State of Hawai'i
Honolulu, Hawai'i**

REGARDING: Request for Administrative Fines and Other Penalties Against Mr. Matthew J Tang trustee of the MATTHEW J TANG TRUST for Conservation District Enforcement Case OA 23-14 Regarding Alleged Permit Noncompliance, Construction of a Shoreline Erosion Control Device, and Encroachment Upon State Land Located Makai of 53-239 Kamehameha Highway, Tax Map Key: (1) 5-3-002:041

The Board may go into Executive Session pursuant to Section 92-5(a)(4), Hawai'i Revised Statutes, in order to consult with its attorney on questions and issues pertaining to the Board's powers, duties, privileges, immunities, and liabilities.

AGAINST: Mr. Matthew J Tang trustee of the TANG, MATTHEW J TRUST

LOCATION: Makai of 53-239 Kamehameha Highway, Punalu'u, Ko'olauloa, O'ahu, Tax Map Key: (1) 5-3-002:041 (subject parcel)

LANDOWNER: State of Hawai'i

SUBZONE: Resource

SUMMARY

This report concerns an Office of Conservation and Coastal Lands ("OCCL") Conservation District Enforcement Case OA 23-14 that has two distinct components, as described in this staff submittal. The first component is noncompliance with an Emergency Conservation District Use Permit ("CDUP") for failing to remove a temporary erosion control structure upon its expiration date in July 2020. The second component is the installation of additional erosion control structures and the installation of additional erosion control materials in the shoreline area fronting the subject parcel.

1. *Alleged Permit Noncompliance- Emergency CDUP OA 17-32*

On September 30, 2021, Mr. Tang was notified in writing that Emergency CDUP 17-32 had expired in July 2020 and that the temporary erosion control structure appeared to be an unauthorized land use and potential violation. Mr. Tang was notified that it constituted an encroachment on State-owned land.

2. Alleged Unauthorized Materials and Erosion Control Structure(s)—ENF: OA 23-14

Throughout 2021 and 2022, OCCL staff conducted site visits to the subject parcel and surrounding area. OCCL staff documented additional violations of unauthorized erosion control measures and structures in the shoreline area fronting the subject parcel. In 2022, Mr. Tang erected a concrete rubble masonry (CRM) wall and later removed it after being notified of the violation. However, despite numerous notices and correspondence with Mr. Tang and his agents, the unauthorized erosion control measures, structures, and debris still litter the State-owned shoreline fronting the subject parcel. See **Exhibit 1**.

The attached exhibits contain OCCL photographs of the shoreline area fronting the subject parcel, correspondence with Mr. Tang and his agents, a history of the shoreline fronting the subject parcel, scientific information regarding geology and erosion, and other relevant documents to this enforcement case.

DESCRIPTION OF AREA

The subject area is located on the east shore of O'ahu, just southeast of Punalu'u Beach Park and seaward of TMK: (1) 5-3-002:041 (see **Exhibit 2**). Most lands in Hawai'i that are seaward of the shoreline are in the Resource Subzone of the State Land Use Conservation District and are owned by the State. The most recent recorded deed for the subject parcel recorded at the State of Hawaii Bureau of Conveyances, in part, states: *Location of the seaward boundary in accordance with the laws of the State of Hawaii and shoreline setback line in accordance with County regulation and/or ordinance* (Doc No(s) A-47000073). There is also a 25 foot setback applied to the mauka portion of the subject parcel from the State highway (Kamehameha Highway). The most recent delineated shoreline was certified on October 3, 2019, and the certified shoreline followed along the top of sandbags, as located on July 30, 2018 (see **Exhibit 3**).

The subject shoreline property contains a single-family residence with residential properties located to the north, south, and west of the property across Kamehameha Highway. According to the Hawai'i Cesspool Prioritization Tool, the property contains a cesspool that has been identified by the Department of Health and the Cesspool Conversion Working Group in the Priority 1 zone – which means it is recommended to be converted (and/or closed) by 2030.¹ A cursory review of the website vrbo.com

¹ https://health.hawaii.gov/wastewater/files/2022/11/ccwg_final_report.pdf and <https://seagrant.soest.hawaii.edu/app2/>

indicates that the property and associated dwelling is and has been used as a transient vacation rental since approximately June 2015 based on reviews submitted to the website (see **Exhibit 4**).² The Pacific Ocean is to the northeast/east of the subject parcel.

The Punalu'u coastline is characterized by long narrow sand beaches and an offshore fringing reef. The shallow fringing reef protects the shoreline from the full energy of northeast tradewind waves and refracted north swells. No modern frontal dune is evident along this portion of the Punalu'u shoreline indicating that either the seaward edge of the coastal dune has eroded or that it has been graded and leveled for development. Landward of the beach and its erosion scarp consists of a low-lying sandy coastal plain.

Long-term shoreline change rates in the vicinity of this area have trended towards chronic erosion (approximately -0.1 feet per year with an uncertainty of +/-1.2 ft – **Exhibit 5**). In addition to the long-term erosional trends are seasonal fluctuations in beach width and shoreline position generated by sediment exchange among the northern and southern segments of the sediment cell due to the seasonal variability in wave and wind patterns.

The combination of long-term chronic and episodic seasonal erosion as well as the low-lying coastal plain is producing increasingly hazardous conditions for beach-front homes in the area owing to rapid sand loss and wave run-up. This region is extensively developed with residential structures fronted by narrow beaches suffering from chronic erosion, lack of modern frontal sand dunes, and the low-lying coastal plain offer less protection with more wave energy coupled with higher sea levels. Consequently, homes in the subject area – including the subject property - have a long history of problems with coastal erosion.

BACKGROUND

The subject parcel has a history of being impacted by chronic and seasonal coastal erosion. Mr. Tang, as well as the previous owner(s) of the subject parcel, have attempted to mitigate the chronic and seasonal erosion affecting this stretch of the shoreline. Additionally, Mr. Tang and the previous owner(s) of the subject parcel obtained Emergency CDUPs for temporary erosion control measures fronting the subject property.³

The subject parcel and Mr. Tang have also been the subject of one (1) previous OCCL enforcement action, ENF: OA 13-29, for the installation of unauthorized erosion control devices, i.e., unauthorized land use, conducted seaward of the subject parcel within the Conservation District. A summary of the prior authorized and unauthorized efforts by the owner(s) of the subject parcel are summarized below. **Exhibit 1**, pp. 18-39, and

² <https://www.vrbo.com/756132?noDates=true&unitId=1304070> , Staff notes that there does not appear to be a [DPP Nonconforming Use Certificate](#) for the subject parcel.

³ Emergency CDUP OA 05-09, Emergency CDUP OA 06-02, and Emergency CDUP OA 17-32

Exhibit 6, pp. 60-67, contain a photographic history and summary of the shoreline area fronting the subject parcel corresponding approximately with the noted dates in this report.

On October 25, 2005, emergency authorization (Emergency CDUP OA 05-09) for a temporary erosion control structure was given in response to shoreline erosion fronting the subject parcel, as well as to Parcels 034 and 046. The applicant represented to the DLNR and OCCL that they were working on a proposed beach nourishment project as a long-term solution. OCCL files indicate that the emergency authorization expired due to no actions being taken by the applicant.

On May 19, 2006, emergency authorization (Emergency CDUP OA 06-02) for a temporary erosion control structure was given in response to the shoreline erosion fronting the subject parcel as well as to parcel 046. The temporary erosion control structure was authorized for a period of five (5) years while the owner(s) of parcel 041 and 046 worked on a long-term solution. See **Exhibit 6**, p. 60.

On February 13, 2013, Mr. Tang was issued a Notice of Alleged Violation & Order letter (ENF: OA 13-29) regarding the alleged placement of rocks, large and small sandbags, geotextile materials, and logs in the shoreline area fronting the subject parcel after OCCL staff had conducted a site visit on January 9, 2013. The matter was resolved by OCCL allowing Mr. Tang to apply for an Emergency CDUP with authorization of the Emergency CDUP contingent upon the submission of a remediation and removal plan for the alleged unauthorized uses. See **Exhibit 6**, p. 61.

On July 3, 2017, emergency authorization (Emergency CDUP OA 17-32) was given to protect the single-family residence on the subject parcel from further erosion and land loss while Mr. Tang, his neighbors, and their planning consultant Group 70 (G70) coordinated a long-term erosion plan. The Emergency CDUP authorized a temporary erosion control structure for a period of three (3) years and upon termination of the three (3) years all materials were to be removed. The completion report for the removal of encroachments (resolution of ENF: OA 13-29) and installation of the temporary erosion control authorized by Emergency CDUP OA 17-32 was submitted on June 13, 2018. See **Exhibit 6**, pp. 65-67; **Exhibit 7**.

UNAUTHORIZED LAND USE(S) IN THE CONSERVATION DISTRICT

There are two (2) components to the instant Conservation District Enforcement Case OA 23-14. The first component is regarding noncompliance with Emergency CDUP OA 17-32 by failing to remove the temporary erosion control structure by July 3, 2020. The second component is for the installation of additional unauthorized erosion control materials and structures in the shoreline area fronting the subject Parcel.

On September 30, 2021, Mr. Tang received notification that Emergency CDUP OA 17-32 expired, and that the temporary erosion control structure authorized under the emergency authorization was no longer in compliance nor have active authorization to occupy State-owned lands. See **Exhibit 8**, p.75. The notification explained that the expired, noncompliant temporary erosion control structure constituted an alleged land

use violation as well as an encroachment on public lands. Further, OCCL staff had identified new alleged unauthorized land use(s) fronting the subject parcel. The placement and construction of further unauthorized erosion control materials and structures, such as a concrete rubble masonry (“CRM”) wall, concrete poured to fill in and secure rocks/boulders, and small polypropylene sandbags, which had been placed in the eroding section under the Tang dwelling and its deck, constituted evidence of alleged unauthorized land uses. The installation of geotextile tubes (burritos) and boulders in the shoreline area constitute evidence of further alleged unauthorized land uses. The following chronological documentation discusses the subject violations and provides evidence of the alleged unauthorized land use(s). See **Exhibit 1**, pp. 18-39, for photographic evidence of the alleged permit noncompliance and unauthorized land uses within the Conservation District.

1. Permit Noncompliance – Emergency CDUP OA 17-32

Emergency CDUP OA 17-32 was issued to Jeffrey Overton, a principal planner at G70, on behalf of Mr. Tang in 2017 and authorized the placement of a temporary erosion control structure for three (3) years. The authorized structure consisted of SEAbankers connected by polypropylene rope, connected to a header board held in place with earth anchors, across eighty (80) feet of shoreline. The applicant signed, concurring with the conditions of the Emergency CDUP, on June 18, 2018. See **Exhibit 7**, pp. 68-74.

On July 3, 2020, Emergency CDUP OA 17-32 expired. Pursuant to Condition #2 of Emergency CDUP OA 17-32, the temporary erosion control structure and all associated materials were to be removed. See **Exhibit 6**, p. 67 and **Exhibit 7**.

On March 17 and May 25, 2021, OCCL staff conducted a site visit to the area and observed the expired temporary erosion control structure was still occupying State lands fronting the subject parcel. Additionally, OCCL staff observed additional unauthorized burritos, rocks, and small polypropylene sandbags placed in the shoreline area fronting the subject parcel. See **Exhibit 1**, pp. 18-20.

On September 30, 2021, issued the Matthew J Tang Trust a Notification of Alleged Noncompliance regarding Emergency CDUP OA 17-32. See **Exhibit 8**, pp. 75. The notification noted that Emergency CDUP OA 17-32 expired on July 3, 2020, the temporary erosion control structure was to be removed per Condition #2 of the Emergency CDUP, and an OCCL-site inspection in the area on May 25, 2021, showed the temporary erosion control structure had not been removed and that unauthorized materials were still in the shoreline area fronting the subject parcel. The notification stated that the subject erosion control structure no longer complies with the terms and conditions of the Emergency CDUP and that the permittee no longer had authorization to utilize State-owned lands. The notification requested that the landowners submit a written report describing how they intended to correct the situation. See **Exhibit 1**, pp. 21-24.

On October 25, 2021, Mr. Tang sent OCCL a response letter to the Notification of Alleged Noncompliance. See **Exhibit 9**, p. 78. The letter noted that the ocean currently

washes under the seaward edge of Mr. Tang's home during high wave events. Additionally, the letter stated that Mr. Tang and his neighbors had engaged G70 and environmental consultants to address the planning and permitting requirements for a range of short-term and long-term solutions including stabilization of the shoreline, adjustments to the residential structure, and beach augmentation. The letter also noted the City and County of Honolulu Department of Planning and Permitting's denial of Mr. Tang and his neighbors' shoreline setback variance application and pending contested case regarding the denial. The letter requested that the unauthorized temporary erosion control structure be allowed to remain.

2. *Unauthorized Materials and Erosion Control Structure(s) – ENF: OA 23-14*

On December 16, 2021, OCCL staff conducted a site visit to the area. OCCL staff observed that the expired temporary erosion control structure was still occupying State lands. The structure appeared to be dilapidated and unauthorized materials consisting of rocks/boulders and small polypropylene sandbags were being utilized in the unauthorized erosion control structure. See **Exhibit 1**, pp. 25-27.

On September 28, 2022, OCCL staff conducted a site visit to the area. Staff observed that a new concrete rubble masonry (CRM) wall had been constructed seaward of the vegetation line along the northern portion of the subject parcel. See **Exhibit 1**, pp. 28-33, for photographs of the CRM wall. OCCL staff observed rocks/boulders and small polypropylene bags utilized to support or reinforce expired temporary erosion control structure. Concrete had been poured to secure the rocks/boulders, secure the small polypropylene bags, and fill the void created by erosion and scour under the deck and dwelling. **Exhibit 1**, p. 32. Staff observed ongoing, active installation of additional erosion control materials consisting of a geotextile tube and rocks/boulders in the shoreline area fronting the subject parcel. There was a small crew working in the shoreline and on the subject parcel with the unauthorized materials and a small excavator/backhoe. See **Exhibit 1**, pp. 28-36, for photographs of the CRM and unauthorized work observed.

On September 30, 2022, the Department issued the MATTHEW J TANG TRUST and trustee Mr. Tang a Notice of Alleged Violation (ENF: OA 23-14) regarding OCCL's site visit on September 28, 2022, and unauthorized work observed. See **Exhibit 10**, pp. 79-81.

On or about October 1, 2022, OCCL became aware that the subject parcel was being marketed for sale.

On October 14, 2022, the OCCL issued Mr. Tang's realtors, Dan K Ihara and Tiffany Young of Keller Williams Honolulu, a letter regarding the alleged violations in the shoreline area fronting the subject parcel and the lack of response from Mr. Tang to the Notice of Alleged Violation. See **Exhibit 11**, p. 105.

On October 20, 2022, Mr. Tang responded to the Notice of Alleged Violation ENF: OA 23-14. The letter reiterated that the highest wash of the waves washes under the seaward edge of the dwelling on the subject parcel. The letter also reiterated that Mr. Tang had continued to engage G70 and other environmental consultants to study a range of short- and long-range options. The letter stated that Mr. Tang intended to

remove the CRM wall to comply and requested that he be reauthorized for temporary erosion control measures fronting the subject parcel. See **Exhibit 11**, pp. 106-107. OCCL staff notes that Mr. Tang has reiterated that he is in contact with G70 since as early as 2017 if not before then.

On November 1, 2022, the OCCL sent Mr. Tang a letter noting that his previous response did not address the unauthorized materials placed and being utilized in the shoreline area fronting the subject parcel, and that the noncompliant expired temporary shoreline protection structure appeared to be an alleged land use violation and encroachment. The letter also stated that the Department and OCCL could not extend or reauthorize the expired, unauthorized temporary erosion control structure(s). The letter noted that it had come to OCCL's attention that Mr. Tang and his agents were marketing the subject parcel and that staff expected these matters were being disclosed to potential buyers, as well as the mandatory seller disclosure for properties within the Sea Level Rise Exposure Area (SLR-XA) as required by Hawaii Revised Statutes (HRS) §508D-15. See **Exhibit 11**, pp. 108-109.

On November 8, 2022, Mr. Tang sent OCCL a response letter noting that removal of the CRM wall was tentatively scheduled for completing by November 14-15, 2022, and that Mr. Tang would provide OCCL staff with photo evidence of removal. The letter stated that Mr. Tang would be moving the dwelling on the subject parcel approximately 25 feet landward on the property and that he expected this could be done within 30 to 45 days, indicating that Mr. Tang was attempting to get permits from the City and County of Honolulu, Department of Planning and Permitting ("DPP") to do so. The letter reiterated Mr. Tang's request to keep the unauthorized erosion control materials until the house could be moved at which time the materials would be removed. See **Exhibit 1**, pp. 37-39; **Exhibit 11**, pp. 110-111.

On December 6, 2022, the OCCL sent Mr. Tang a letter reiterating that the OCCL cannot extend expired permits, nor could OCCL staff entertain any applications for repairs or reconstruction of any structure or land uses being investigated for possible violation of Hawaii Administrative Rules (HAR) Chapter 13-5. The letter also noted that Mr. Tang's previous correspondences to the OCCL did not address the unauthorized materials placed within the shoreline area fronting the subject parcel such as, but not limited to, rocks/boulders, small polypropylene sandbags, and the concrete pad that was poured under the lanai which appears to be makai of the shoreline. See **Exhibit 11**, pp. 112-113.

On December 13, 2022, Mr. Tang sent the Department a letter and photos documenting removal of the CRM wall. The letter stated that Mr. Tang had employed consultants to help him obtain the DPP permits needed to move the dwelling on the subject parcel more landward. See **Exhibit 11**, pp. 114-117.

On December 20, 2022, the OCCL sent Mr. Tang a response noting his compliance regarding the CRM wall removal. The OCCL again noted that Mr. Tang's letter and actions did not resolve all the alleged violations in that they did not address the unauthorized materials placed in the shoreline area of the Tang parcel. The letter reiterated OCCL's expectation that Mr. Tang was providing all of OCCL's letters to his realtors and potential buyers as OCCL staff had received several inquiries regarding the

subject parcel and alleged violations. The letter also requested that Mr. Tang and his agents clarify who the point of contact would be regarding these matters because staff had received several letters and emails from Mr. Tang and his agents. See **Exhibit 11**, pp. 118-119.

On January 5, 2023, OCCL received an email from Mr. Tang's realtors regarding the alleged violations. The email stated that they had received all OCCL's letters regarding these matters and that they had been disclosing the alleged violations and the subject parcel's sea level rise exposure to all interested parties. The email contained a series of questions regarding OCCL's enforcement case including whether removal of the remaining alleged violations/unauthorized land uses would satisfy the OCCL and exempt Mr. Tang from any fines. See **Exhibit 11**, p. 120.

On January 9, 2023, Mr. Tang emailed OCCL a letter stating that he and his agents were continuing to work on the DPP permit to move the dwelling on the subject parcel more landward. The letter requested more time to work on his proposal and reiterated his request to keep the expired and unauthorized erosion control materials that were in the shoreline area fronting the Tang parcel. See **Exhibit 11**, p. 121.

On January 10, 2023, the OCCL sent Mr. Tang a letter noting that staff intended to bring this matter before the BLNR for final disposition. The letter stated that OCCL staff had received several correspondences from Mr. Tang, his agents, and parties interested in the enforcement case regarding the subject parcel. The letter noted that Mr. Tang's intentions to resolve matters was unclear to OCCL staff based on recent communications received from Mr. Tang and his agents. See **Exhibit 11**, pp. 122-123.

The shoreline fronting the subject parcel has been covered with unauthorized erosion control materials and structures since July 2020. There is no way for a person to traverse the shoreline without encountering, or being blocked by, the accumulation of erosion control debris fronting the subject property.

Despite Mr. Tang and his agents' representations that he has retained consultants to come up with a long-term plan for erosion mitigation, Mr. Tang has been working with G70 for at least five years and has yet to provide the OCCL with his plan for erosion mitigation and/or retreat from the shoreline. The OCCL has been provided with little evidence to suggest that Mr. Tang and his agents will voluntarily remove the unauthorized erosion control materials and structures from State-owned lands.

CONSERVATION DISTRICT RULES AND STATUTES

Land uses in the Conservation District are regulated under Hawai'i Revised Statutes ("HRS") Chapter 183C, and Hawai'i Administrative Rules ("HAR"), Chapter 13-5. HAR Chapter 13-5, HAR, identifies land within the Conservation District that require OCCL and/or BLNR approval and/or a permit. Chapter 13-5, HAR, also provides the administrative rules relating to penalties, collection of administrative costs, and damages against persons responsible for unauthorized land uses within the Conservation District.

Section 13-5-6(d), HAR, provides that “no land use(s) shall be conducted in the conservation district unless a permit or approval is first obtained from the department or board.”

Section 13-5-2, HAR, defines “land use” as follows:

- (1) the placement or erection of any solid material on land if that material remains on the land more than thirty days, or which causes a permanent change in the land area on which it occurs;
- (2) the grading, removing, harvesting, dredging, mining, or extraction of any material or natural resource on land;
- (3) the subdivision of land; or
- (4) the construction, reconstruction, demolition, or alteration of any structure, building, or facility on land.

One of the allowed uses is for shoreline erosion control Section 13-5-22 P-15(D-1) , HAR:

Seawall, revetment, groin, or other coastal erosion control structure or device, including sand placement, to control erosion of land or inland area by coastal waters, provided that the applicant shows that (1) the applicant would be deprived of all reasonable use of the land or building without the permit;(2) the use would not adversely affect beach processes or lateral public access along the shoreline, without adequately compensating the State for its loss; or (3) public facilities (e.g., public roads) critical to public health, safety, and welfare would be severely damaged or destroyed without a shoreline erosion control structure, and there are no reasonable alternatives (e.g., relocation). Requires a shoreline certification.

Section 183C-7, HRS, provides the statutory penalty for violations of Chapter 13-5, HAR, and provides, in part:

- (a) The department shall prescribe administrative procedures as it deems necessary for the enforcement of this chapter.
- (b) Any person violating this chapter or any rule adopted in accordance with this chapter shall be fined not more than \$15,000 per violation in addition to administrative costs, costs associated with land or habitat restoration, and damages to public land or natural resources, or any combination thereof. After written or verbal notification from the department, willful violation of this chapter or any rule adopted in accordance with this chapter may incur an additional fine of up to \$15,000 per day per violation for each day in which the violation persists.

The board may set, charge, and collect the fine based on the value of the natural resource that is damaged, the market value of the natural resource damaged, and any other factor it deems appropriate, such as the loss of the natural resource to its natural habitat and environment and the cost of

restoration or replacement. The remedies provided for in this subsection are cumulative and in addition to any other remedies allowed by law.

Pursuant to Section 13-5-6, HAR, any person, firm, government agency, or corporation violating any of the provisions of chapter 13-5, or permits issued pursuant thereto, shall be punished as provided in chapter 183C, HRS.

Chapter 205A-2(B), HRS, provides that as State policy, there is a prohibition on the construction of private shoreline hardening structures, including seawalls and revetments, at sites having sand beaches and at sites where shoreline hardening structures interfere with existing recreational and waterline activities.

ENCROACHMENT UPON STATE LAND

Section 115-9(a), HRS, establishes a prohibition on individuals obstructing access to public property, by having installed a physical impediment, and intentionally prevents a member of the public from traversing a public right of way or beach transit corridor and thereby obstructs access to and along the sea or the shoreline. Section 115-9(b) specifically lists constructed barriers and rubbish. The right of access to Hawai'i's shorelines includes the right of transit along the shorelines. Section 115-4, HRS. Although the OCCL staff is not seeking to impose criminal liability on Mr. Tang through Section 115-9(c) and (d) at this time, it is notable that such liability exists. At this time, OCCL staff seeks to impose administrative and civil fines upon Mr. Tang for his encroachments on State lands.

Section §171-6 (12), HRS, states the Board of Land and Natural Resources ("Board") may "[b]ring such actions as may be necessary to remove or remedy encroachments upon public lands. Any person causing an encroachment upon public land shall:

- (A) Be fined not more than \$1,000 a day for the first offense;
- (B) Be fined not less than \$1,000 nor more than \$4,000 per day upon the second offense and thereafter;
- (C) If required by the board, restore the land to its original condition if altered and assume the costs thereof;
- (D) Assume such costs as may result from adverse effects from such restoration; and
- (E) Be liable for administrative costs incurred by the department and for payment of damages..."

Section §171-6 (15), HRS, further allows the Board to assess the following fines for a violation on Chapter 171, HRS, or any administrative rule adopted thereunder:

- (15) Set, charge, and collect reasonable fines for violation of this chapter or any rule adopted thereunder. Any person engaging in any prohibited use of public lands or conducting any prohibited activity on public lands, or violating

any of the other provisions of this chapter or any rule adopted thereunder, for which violation a penalty is not otherwise provided, shall be:

- (A) Fined no more than \$5,000 per violation for a first violation or a violation beyond five years of the last violation; provided that, after written or verbal notification from the department, an additional \$1,000 per day per violation may be assessed for each day in which the violation persists;
- (B) Fined no more than \$10,000 per violation for a second violation within five years of the last violation; provided that, after written or verbal notification from the department, an additional \$2,000 per day per violation may be assessed for each day in which the violation persists;
- (C) Fined no more than \$20,000 per violation for a third or subsequent violation within five years of the last violation; provided that, after written or verbal notification from the department, an additional \$4,000 per day per violation may be assessed for each day in which the violation persists; and
- (D) Liable for administrative costs and expenses incurred by the department and for payment for damages, including but not limited to natural resource damages.

In addition to the fines, administrative costs, and damages provided for hereinabove, for damage to or theft of natural resources, the board may also set, charge, and collect a fine that, in its discretion, is appropriate considering the value of the natural resource that is damaged or the subject of the theft.

In arriving at an appropriate fine, the board may consider the market value of the natural resource damaged or taken and any other factor it deems appropriate, such as the loss of the natural resource to its natural habitat and environment and the cost of restoration or replacement. The remedies provided for in this paragraph are cumulative and in addition to any other remedies allowed by law.

No person shall be sanctioned pursuant to this section for the exercise of native Hawaiian gathering rights and traditional cultural practices as authorized by law or as permitted by the department pursuant to article XII, section 7, of the Hawai'i state constitution.

DISCUSSION

The beaches of Hawai'i are held in trust by the State for the benefit of present and future generations. The State must be consulted, and a land disposition obtained, when individuals seek to temporarily use beach areas for construction purposes. There should be consequences when an individual unilaterally and willfully acts in such a way that endangers a public trust resource.

Coastal erosion occurs as a result of the following phenomena:

- (1) Seasonal changes in waves and currents that moves sand alongshore or across the shore, adjusting the beach profile;
- (2) Long-term (chronic) deficiencies in natural sand supply and/or fluctuations in meteorological or oceanographic processes such as storms and seas level rise; and
- (3) Human impacts to sand availability through sand impoundment and supply disruption from development and coastal engineering.

During the last several years, beach erosion in this area appears to have intensified significantly. While such erosion could be attributed to decadal scale fluctuations in beach morphology (normal accretion and erosion cycles), it is more likely that the erosion has become chronic and permanent and as a result of acceleration in sea level rise this century. Thermal expansion of the oceans and melting glaciers and ice fields is causing sea level rise resulting in the landward migration of the active beach. Over the past century, local tide gauges have measured approximately 0.5 ft of rise in sea levels among the islands such that it should be no surprise that resulting impacts are occurring.

The Department has taken a number of measures throughout the past two decades to address the progressively damaging chronic and seasonal erosion concerns in the greater Punalu'u area. Prior to 2020 the Department authorized, through Emergency CDUPs, temporary erosion control measures such as geotextile cloths, commonly known as sandbag burrito revetments, fronting several homes in the subject area.

The Department authorized these erosion measures as **temporary** solutions so that long-term options could be developed by subject landowners. Requests such as those above have become commonplace to the extent that geotextile tarps and sandbags line several sections of the shoreline along this stretch of the Punalu'u coastline.⁴

OCCL staff acknowledges that the situation is challenging for the homeowners, but the Department is also confronted by the lack of compliance and continued violations. The subject landowners do not seem to have used the opportunity of temporary authorizations to develop long-term options, such as moving their homes away from the shoreline. Instead, it appears Mr. Tang has hardened the shoreline without authorization and appears to be attempting to pass the subject property and its associated challenges onto another party. The OCCL has received several inquiries from parties interested in the property regarding the alleged violations.

Chapter 205A-2, HRS, regarding Coastal Zone Management, was amended by Act 16 in 2020 to include the following policy:

⁴ The OCCL notes that while these measures are currently mildly effective at protecting beachfront development, it is understood that sea level rise will render these temporary measures increasingly ineffective. For this reason, the OCCL encourages beachfront homeowners living on chronically eroding shorelines to take proactive measures, such as decreasing their building footprint and relocating structures to the extreme landward extent of their property boundaries.

(B) Prohibit construction of private shoreline hardening structures, including seawalls and revetments, at sites having sand beaches and at sites where shoreline hardening structures interfere with existing recreational and waterline activities.

As such, the Department has notified landowners that they can expect far more stringent conditions on work in the shoreline than what has been required in the past.

This is a chronically eroding shoreline, at the rate of approximately -0.1 feet per year. A natural shoreline would migrate inland. However, in the subject area houses have been built directly on a low-lying coastal plain which are experiencing the effects of more wave energy coupled with higher water levels. The situation we are facing was inevitable – the beach was naturally going to migrate to where the homes are located.

Hardening an actively eroding shoreline breaks the natural sand cycle and leads to beach loss. A 1999 study found that 10.7 miles of beach on O‘ahu had been narrowed, and 6.4 miles lost ... or 24% of the State’s original 71.6 miles of sandy shoreline. Hardening the shoreline in one area leads to impacts on neighboring properties. One person’s activities taken in their own self-interest can negatively impact the State’s public trust resources, neighboring properties, and create a hazardous situation for the public.

The administrative rules recognize that the allowance of shoreline erosion control measures for private applicants is a balance between the applicant’s reasonable use of private property, the effect on beach processes or lateral public access, and protection of the public trust beach and shoreline access. HAR § 13-5-22 P-15(D-1).

The OCCL has been significantly challenged by the events along this stretch of the Punalu‘u coast over the past several years. The OCCL has been trying to balance the security of the homeowners with protection of the sand beach. Without intervention by the OCCL with temporary soft erosion control measures, many homes would have already been harmed. Yet, many homeowners have installed, and continue to install, erosion protection systems on public beach land in the Conservation District without Department and/or Board consent or authorization.

Based on the presented evidence, the unauthorized temporary erosion control structure(s) and erosion control measures sit upon State-owned public and constitute land use violations. Mr. Tang did not obtain authorization from OCCL or obtain a land disposition or permission from the Board to utilize and occupy State lands..⁵ Based on previous correspondences with Mr. Tang, he is fully aware of the noncompliance, existing violations, and the need to consult with the OCCL to obtain authorization(s) prior to conducting work in the shoreline area.

⁵ Because the emergency erosion control structure is installed in front of the portion of the property that is eroding, it is considered to be on the state submerged land. The Department requires an applicant for an emergency erosion control permit (such as to place sandbags on the beach) to apply for a Right of Entry or a Revocable Permit from the Board under HRS 171-55.

OCCL staff recommends that the Board issue fines and penalties allowed under its authority, further described below.

FINDINGS AND CONCLUSIONS

Based on the above-summarized information, OCCL Staff has reached the following findings and/or conclusions regarding the alleged violations:

1. That Mr. Tang did in fact, authorize and cause:
 - The placement of additional erosion control measures and the construction of shoreline hardening structures (seawall and/or revetment) upon public land within the State Land Use Conservation District, Resource Subzone;
 - There is no land disposition for the occupation of public land by the erosion control measure(s)
2. That, despite receiving notices from the OCCL starting in 2020, Mr. Tang has failed to remove debris and past erosion control structures fronting the subject parcel; and
3. That the unauthorized occupation of public land by Mr. Tang and/or his agents occurred upon submerged public land that lies within the State Land Use Conservation District, Resource Subzone.

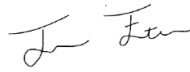
STAFF RECOMMENDS

1. That the Board of Land and Natural Resources adopt the findings and conclusions of OCCL staff and issue the following administrative fines:
 - a. Pursuant to Section 183C-7, HRS, Mr. Tang is fined \$15,000 for violating the provisions of Section 13-5-24, HAR, by failing to abide by the terms and conditions of Emergency CDUP OA 17-32 that require the removal of the temporary erosion control measures at the end of the authorization period from submerged land in the Conservation District Resource Subzone;
 - b. Pursuant to Section 183C-7, HRS, Mr. Tang is fined \$15,000 for violating the provisions of Section 13-5-24, HAR, by constructing shoreline hardening and/or erosion control structure(s) on submerged land in the Conservation District Resource Subzone;
 - c. Pursuant to Section 171-6 (12), HRS, Mr. Tang be fined \$1,000 per day for his failure to remove the encroachments upon public lands, accrual of such starting when he received notice on October 3, 2022, and therefore totaling \$158,000;

- d. Therefore, that the total fines and administrative costs levied against Mr. Tang is \$188,000 and that Mr. Tang shall pay all designated fines and administrative costs within thirty (30) days from the date of the Board's action;
2. That Mr. Tang or a future owner of the subject parcel shall remove all unauthorized erosion control materials and encroachments within one hundred eighty (180) days from the date of the Board's action;
3. That Mr. Tang or a future owner of the subject parcel shall remove or relocate the portions of the dwelling that are makai of the shoreline within one hundred eighty (180) days from the date of the Board's action. That Mr. Tang or a future owner of the subject parcel shall ensure that removal or relocation of the dwelling or portions of it that are makai of the shoreline comply with all applicable statutes, ordinances, rule, regulations, and conditions of the Federal, State and County governments;
4. That Mr. Tang shall restore the shoreline area to a more natural state and the Department's satisfaction within one hundred eighty (180) days from the date of the Board's action;
5. Regarding Recommendation 4, the Board authorizes the issuance of a right-of-entry permit to Mr. Tang or a future owner of the subject parcel covering the subject area for removal of shoreline erosion control device under the terms and conditions cited above, which are by this reference incorporated herein and further subject to the following:
 - a. The standard terms and conditions of the most current right-of-entry permit form, as may be amended from time to time;
 - b. The right-of-entry shall be for a term of one hundred eighty (180) days or until the completion of the project, whichever is sooner; and,
 - c. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State;
6. That in the event Mr. Tang or a future owner of the subject parcel fails to restore the shoreline area to a more natural state and the Department's satisfaction within one hundred eighty (180) days from the date of the Board's action, Mr. Tang or a future owner of the subject parcel shall be liable for costs of removal incurred by the State or local government(s);
7. That in the event of failure of Mr. Tang or a future owner of the subject parcel to comply with any order herein, they shall be fined an additional \$16,000 per day, pursuant to Sections 171-6 (12) and 183C-7, HRS, until the order is complied with;
8. That in the event of failure of Mr. Tang or a future owner of the subject parcel to comply with any order herein, this matter shall be turned over to the Attorney General for disposition, including all administrative costs; and

9. Delegate authority to the Chairperson to effectuate the above recommendations, subject to such conditions as may be prescribed by the Chairperson to best serve the interest of the State, without further consultation with the Board, subject to review and approval by the Department of the Attorney General.

Respectfully submitted,



Trevor Fitzpatrick, Staff Planner
Office of Conservation and Coastal Lands

mc

Approved for submittal:



Dawn N. S. Chang, Chairperson
Board of Land and Natural Resources

Exhibit List for K-2

- Exhibit 1:** OCCL Photos of Shoreline Area Fronting Parcel 041 and Alleged Unauthorized Land Uses March 2021 to November 2022 (pages 18-39)
- Exhibit 2:** Location & Sea Level Rise Map (pages 40-42)
- Exhibit 3:** 2019 Certified Shoreline for Parcel 041 (pages 43-47)
- Exhibit 4:** C&CH Department of Planning & Permitting Property Information, TMK Map, Hawai'i Cesspool Prioritization Tool Map, and vrbo.com add for Parcel 041 (pages 48-58)
- Exhibit 5:** UH Coastal Geology Group Erosion Rate Map (page 59)
- Exhibit 6:** Photographic History and Summary of Shoreline Area Fronting Parcel 041 from Approximately 2004/2005 to June 2020 (pages 60-67)
- Exhibit 7:** Emergency Conservation District Use Permit (CDUP) OA 17-32 (pages 68-74)
- Exhibit 8:** Notification of Alleged Noncompliance Ref: Emergency CDUP OA 17-32 (pages 75-77)
- Exhibit 9:** October 25, 2021, Tang Response Letter to Notification of Alleged Noncompliance (page 78)
- Exhibit 10:** Notice of Alleged Violation ENF: OA 23-14 Alleged Unauthorized Land Use Within the Conservation District seaward of Parcel 041 (pages 79-104)
- Exhibit 11:** Correspondences between OCCL, Tang, and Tang's Agents Regarding Alleged Permit Noncompliance and ENF: OA 23-14 from October 14, 2022 to January 10, 2023 (pages 105-123)



3/17/2021 OCCL Photo of Shoreline Area Fronting Subject Property



3/17/2021 OCCL Photo of Shoreline Area Fronting Subject Property



5/25/2021 OCCL Photo of Shoreline Area Fronting Subject Property



8/17/2021 OCCL Photo of Shoreline Area Fronting Subject Property



8/17/2021 OCCL Photo of Shoreline Area Fronting Subject Property



9/15/2021 OCCL Photo of Shoreline Area Fronting Subject Property



9/15/2021 OCCL Photo of Shoreline Area Fronting Subject Property



12/16/2021 OCCL Photo of Shoreline Area Fronting Subject Property



12/16/2021 OCCL Photo of Shoreline Area Fronting Subject Property



12/16/2021 OCCL Photo of Shoreline Area Fronting Subject Property



9/28/2022 OCCL Photo of Shoreline Area Fronting Subject Property



9/28/2022 OCCL Photo of Shoreline Area Fronting Subject Property



9/28/2022 OCCL Photo of Shoreline Area Fronting Subject Property



9/28/2022 OCCL Photo of Shoreline Area Fronting Subject Property



9/28/2022 OCCL Photo of Shoreline Area Fronting Subject Property



9/28/2022 OCCL Photo of Shoreline Area Fronting Subject Property



10/5/2022 OCCL Photo of Shoreline Area Fronting Subject Property



10/5/2022 OCCL Photo of Shoreline Area Fronting Subject Property



10/5/2022 OCCL Photo of Shoreline Area Fronting Subject Property



11/18/2022 OCCL Photo of Shoreline Area Fronting Subject Property

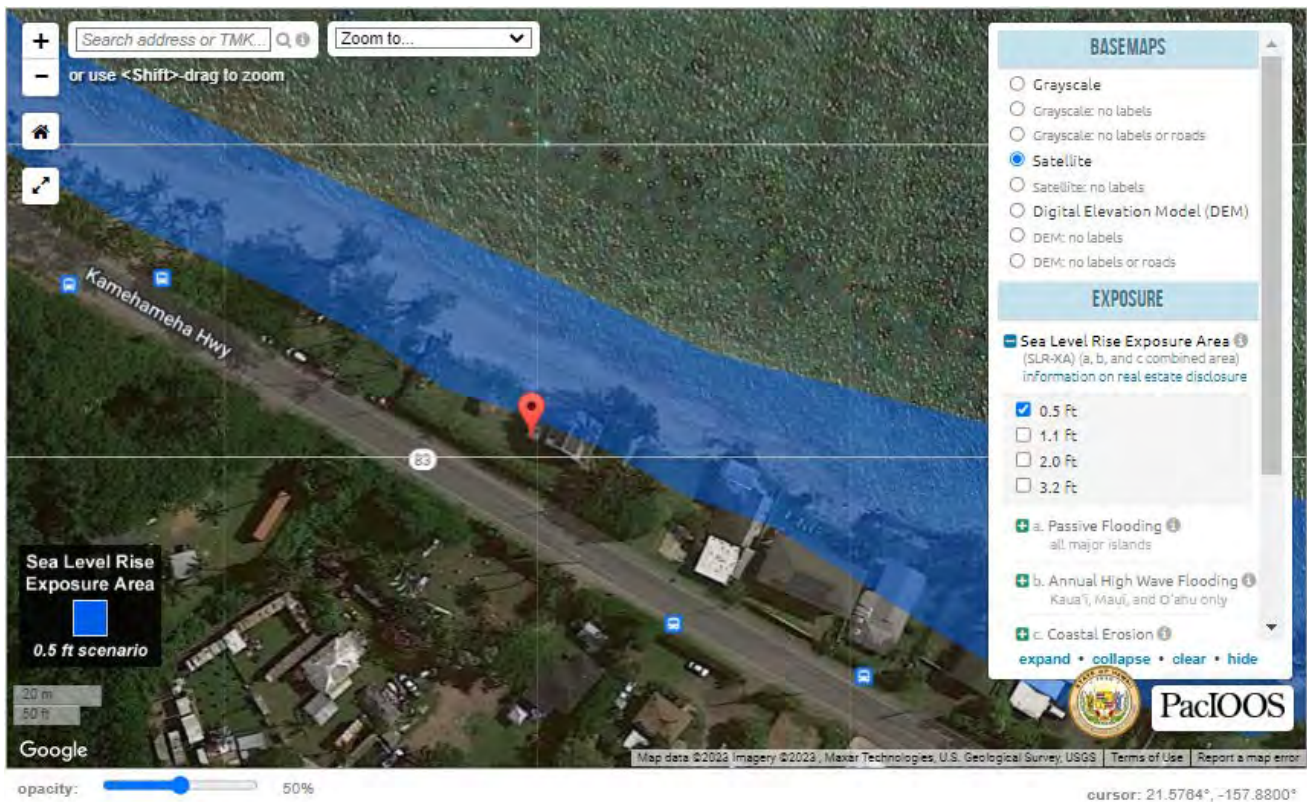


11/18/2022 OCCL Photo of Shoreline Area Fronting Subject Property



11/18/2022 OCCL Photo of Shoreline Area Fronting Subject Property



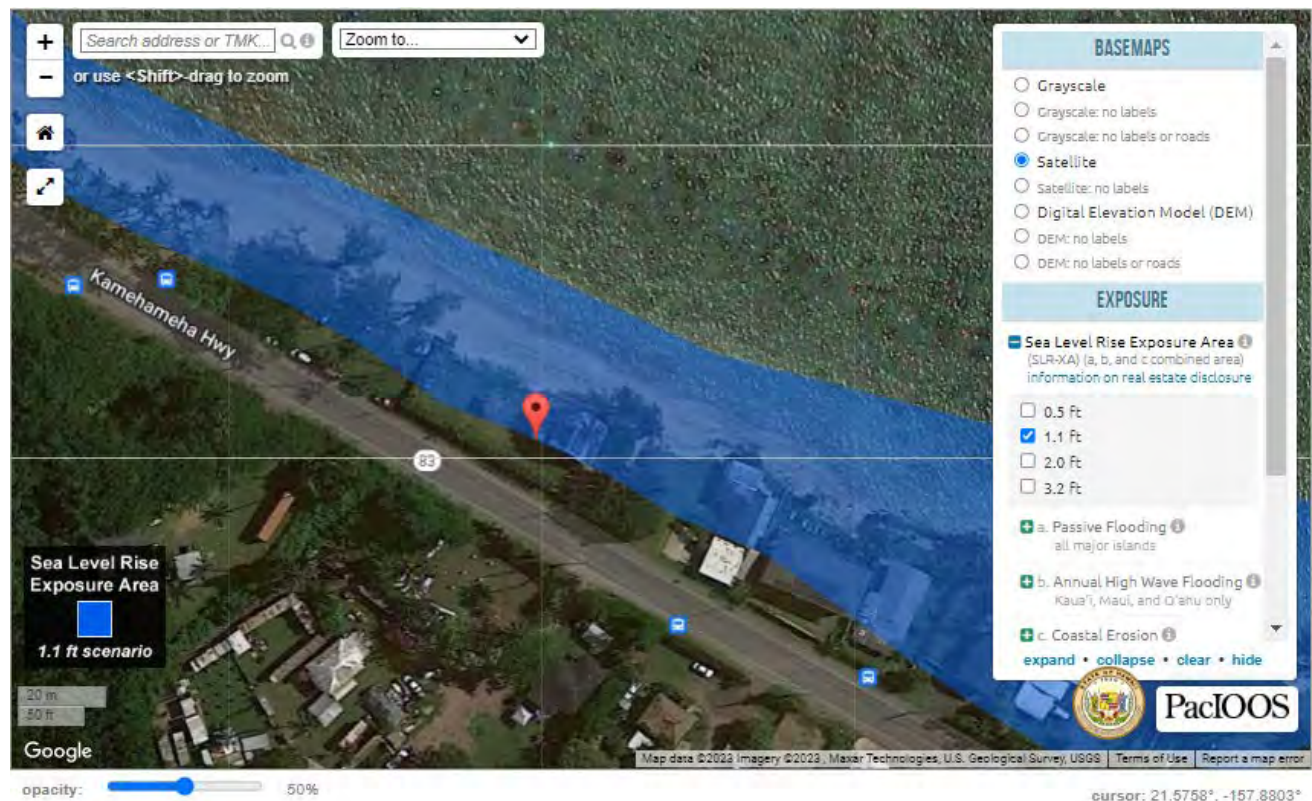


Plat Area: (1) 5-3-002

at 0.5-ft ≈ 2030 Above

TMK: (1) 5-3-002:041 Marker

at 1.1-ft ≈ 2050 Below



Sea Level Rise Projections For Modeling

Sea level rise exposure mapping in the 2017 Hawai'i Sea Level Rise Report is based on an upper-end projection of 3.2 feet of sea level rise by 2100 in the 5th Assessment Report (AR5) of the Intergovernmental Panel on Climate Change (IPCC), the United Nations body of leading climate scientists and governmental representatives. The IPCC AR5 identified four sea level rise scenarios based on Representative Concentration Pathways (RCPs) for Greenhouse Gas (GHG) emissions (IPCC 2014). The IPCC AR5 "business-as-usual" GHG emissions scenario, RCP8.5, was used to model exposure to sea level rise. This scenario assumes GHG emissions continue to increase at their current rate and predicts as much as 3.2 feet of Global Mean Sea Level (GMSL) rise by the year 2100 (Figure 1).

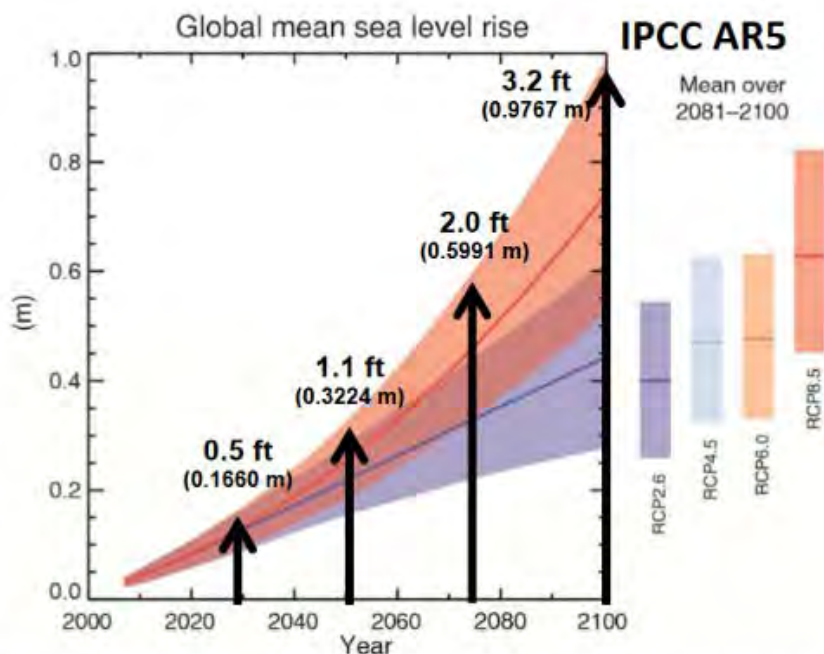
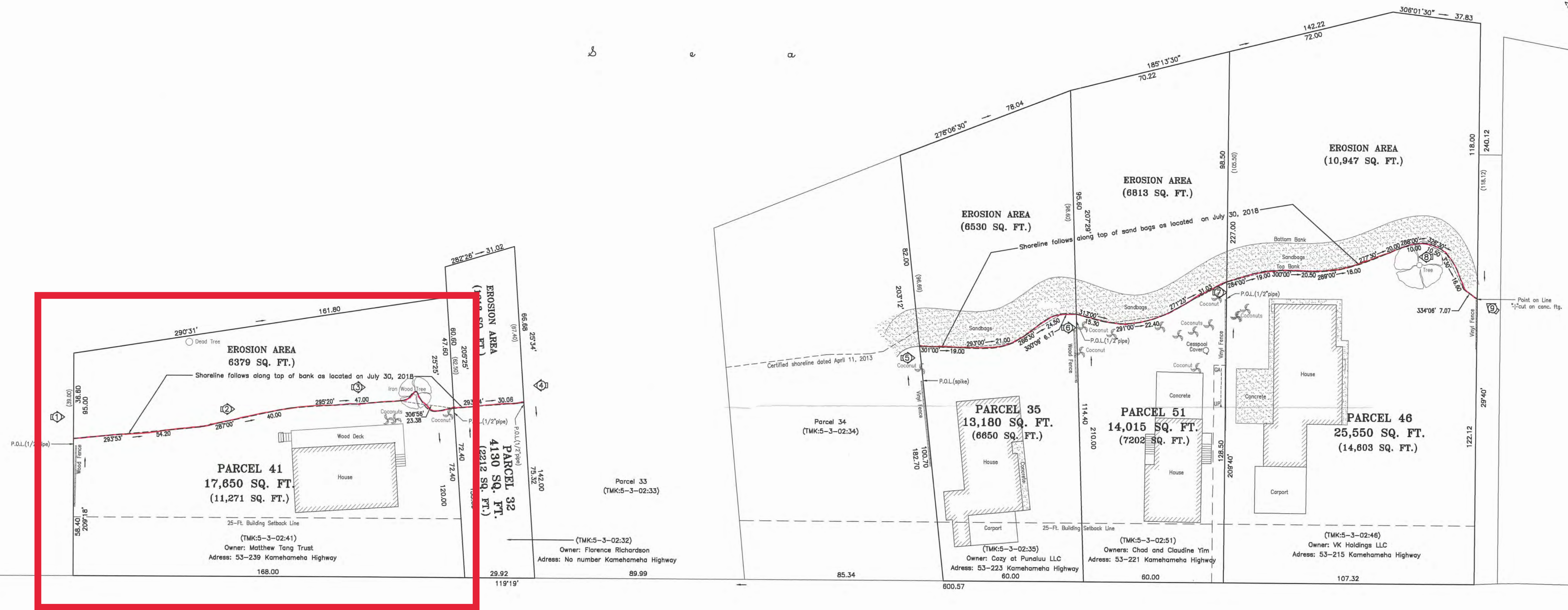


Figure 1. Projected GMSL rise under different greenhouse gas emissions scenarios from the IPCC AR5 Report.

As expected, the science on sea level rise observations and forecasts have continued to advance. Since completion of the 2017 Report, peer-reviewed scientific literature as well as government and multinational reports increasingly point to about 3 feet of sea level rise by 2100 as a mid-range, rather than high-end, scenario and show that sea level rise greater than 3 feet in this century is physically possible (Figure 2, Sweet et al. 2017). These increasing projections of sea level rise are based on greenhouse gas emissions, which continue to increase, and observations of accelerating ice mass loss to the oceans, particularly from Greenland and West Antarctica. The projections are often provided to 2100, though sea level rise will not stop at that time but will likely continue for centuries.

From - <https://www.pacioos.hawaii.edu/shoreline/slr-hawaii/>

TRUE NORTH
Scale: 1 inch = 20 feet

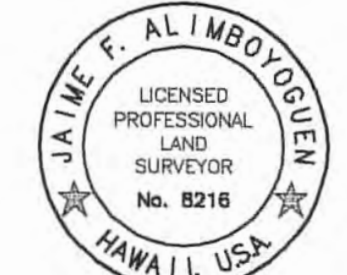


The shoreline as delineated in red is hereby certified as the shoreline as of
OCT 03 2018

Chairperson, Board of Land and Natural Resources
Rm

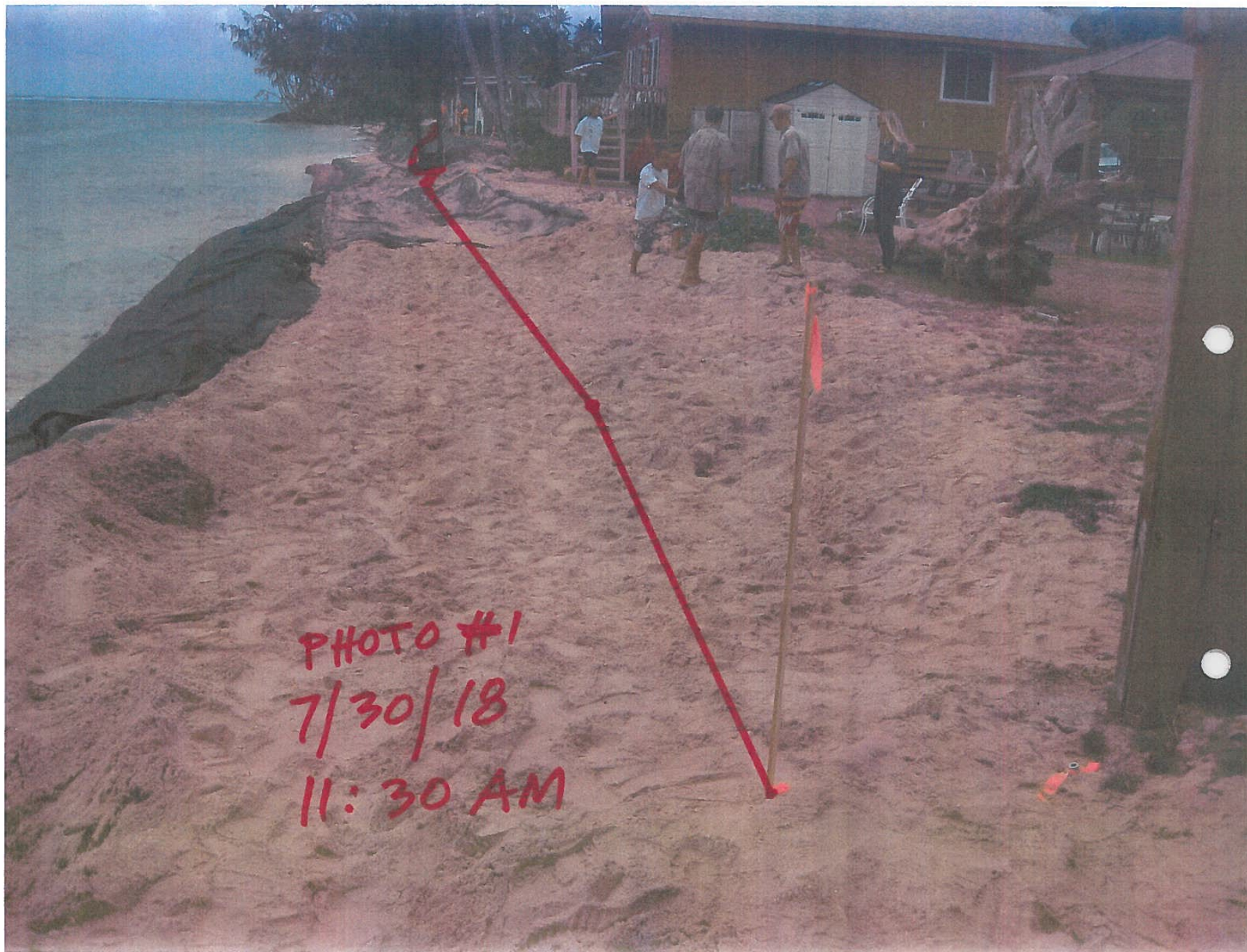
- NOTES:
1. Only improvements shown were located.
 2. Denotes number and direction of photographs.

SHORELINE SURVEY MAP
PARCELS 41, 32, 35, 51 AND 46
Being portions of Royal Patent 7804,
Land Commission Award 9971, Apana 25 to W. P. Leleihoku
Punahoa, Koolauloa, Oahu, Hawaii
Tax Map Keys: 5-3-02: 41, 32, 35, 51 and 46
Scale: 1 inch = 20 feet
Date: August 20, 2018

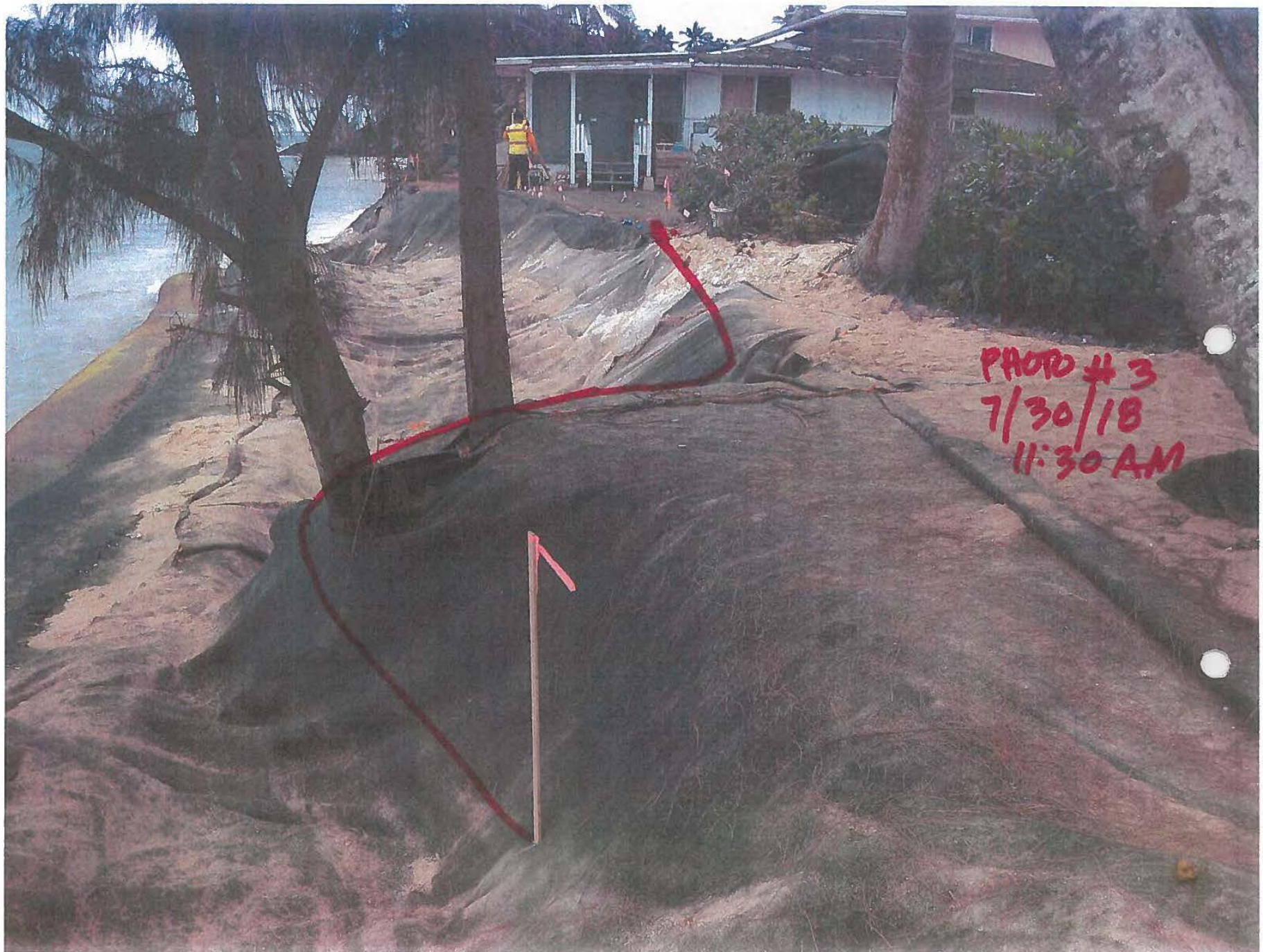


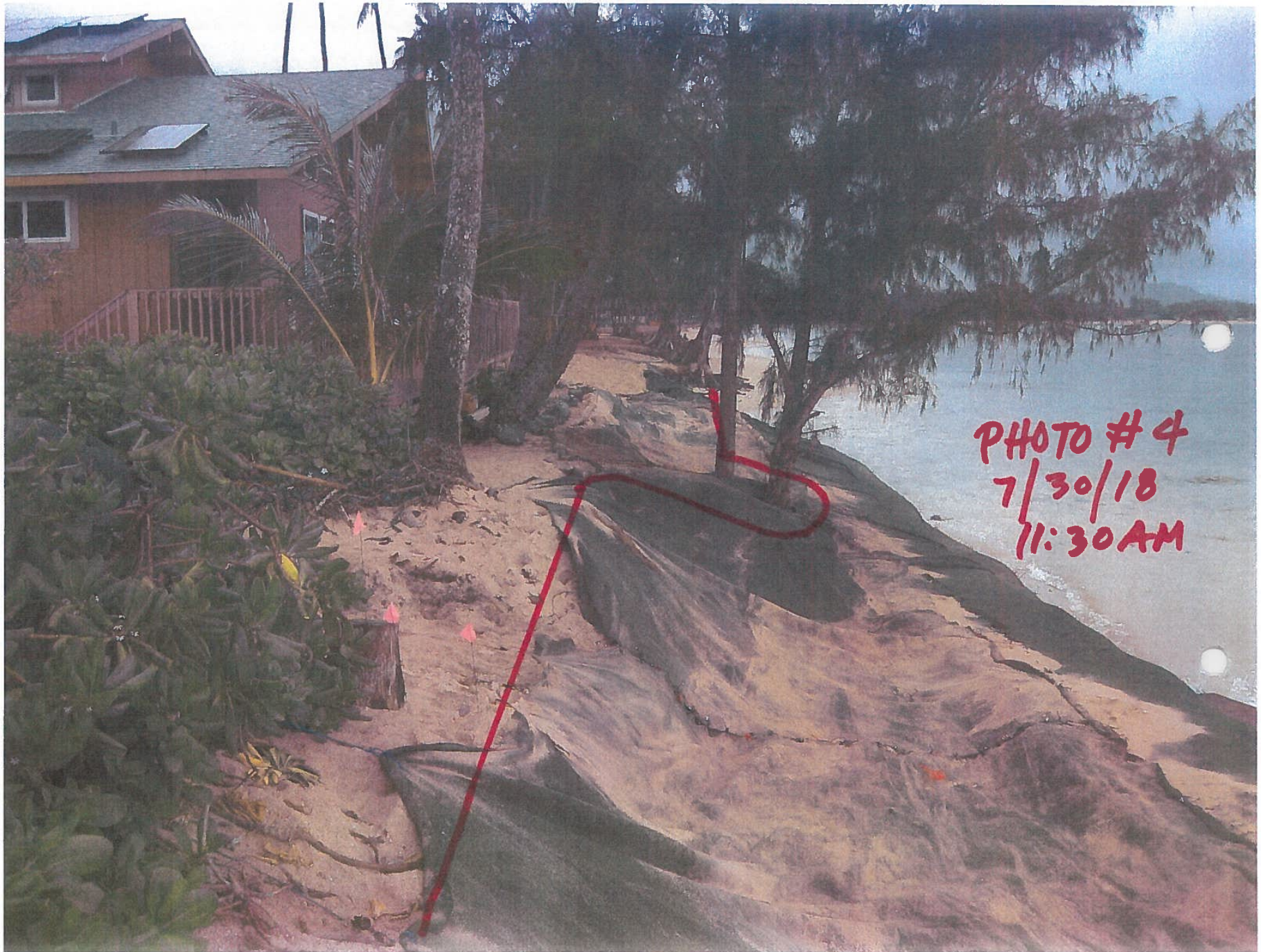
Jaime F. Alimboyocen
This work was prepared by me or under my direct supervision.

SURVEY OFFICE COPY











53 239 KAM HWY

Wednesday, January 25, 2023 | 8:20:10 AM

General Information

TMK:	53002041:0000
Building Value:	\$319,200.00
Building Exemption:	\$0.00
Land Value:	\$846,300.00
Land Exempt:	\$0.00
Acres:	0
Square Feet	17,650
<u>Property Tax Class:</u>	Residential
City:	Hauula
Zip Code:	96717
Realtor Neighborhood:	Punaluu



Nearest Park:

Tax Bill Owner Information

Name	Type	Address	Address 2	City State Zip
TANG,MATTHEW J TR	Fee Owner	3110 HUELANI DR		HONOLULU HI 96822

2010 Census Information

Tract Number:
Block Number:
Population (block):

Voting Information

City Council Member: Heidi Tsuneyoshi
Polling Place: Hauula Elem Sch
Address: 54-046 Kamehameha Hwy
Neighborhood Board: Koolauloa

School and Transit Information

Elementary School:	Hauula	show route
High School:	KAHUKU	show route
Near Transit Route:		Yes
Near Bus Routes:		55, 88A

Zoning and Flood Information

Zoning (<u>LUO</u>) Designation:	R-5
Ohana Zoning Designation:	Eligible
FEMA <u>Flood</u> Designation:	VE
Tsunami Evacuation Zone:	Yes

[more public safety info >>](#)

Page Tools: [PRINT](#) | [BOOKMARK](#) | [EMAIL](#) | [STREET/BIRD'S EYE](#)

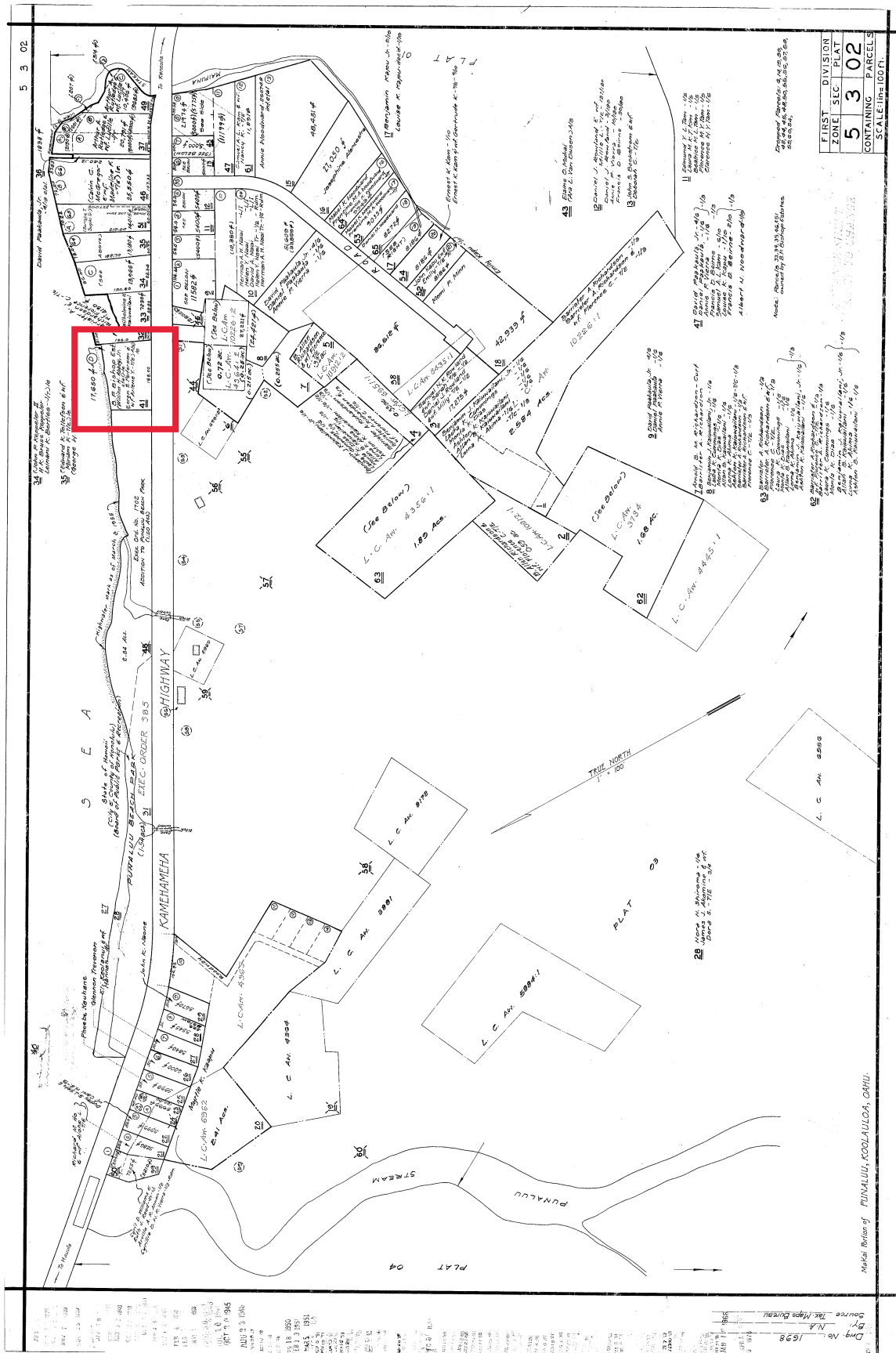
More info: [ZONE INFO](#) | [BUILDING PERMITS](#) | [PROPERTY TAX](#)

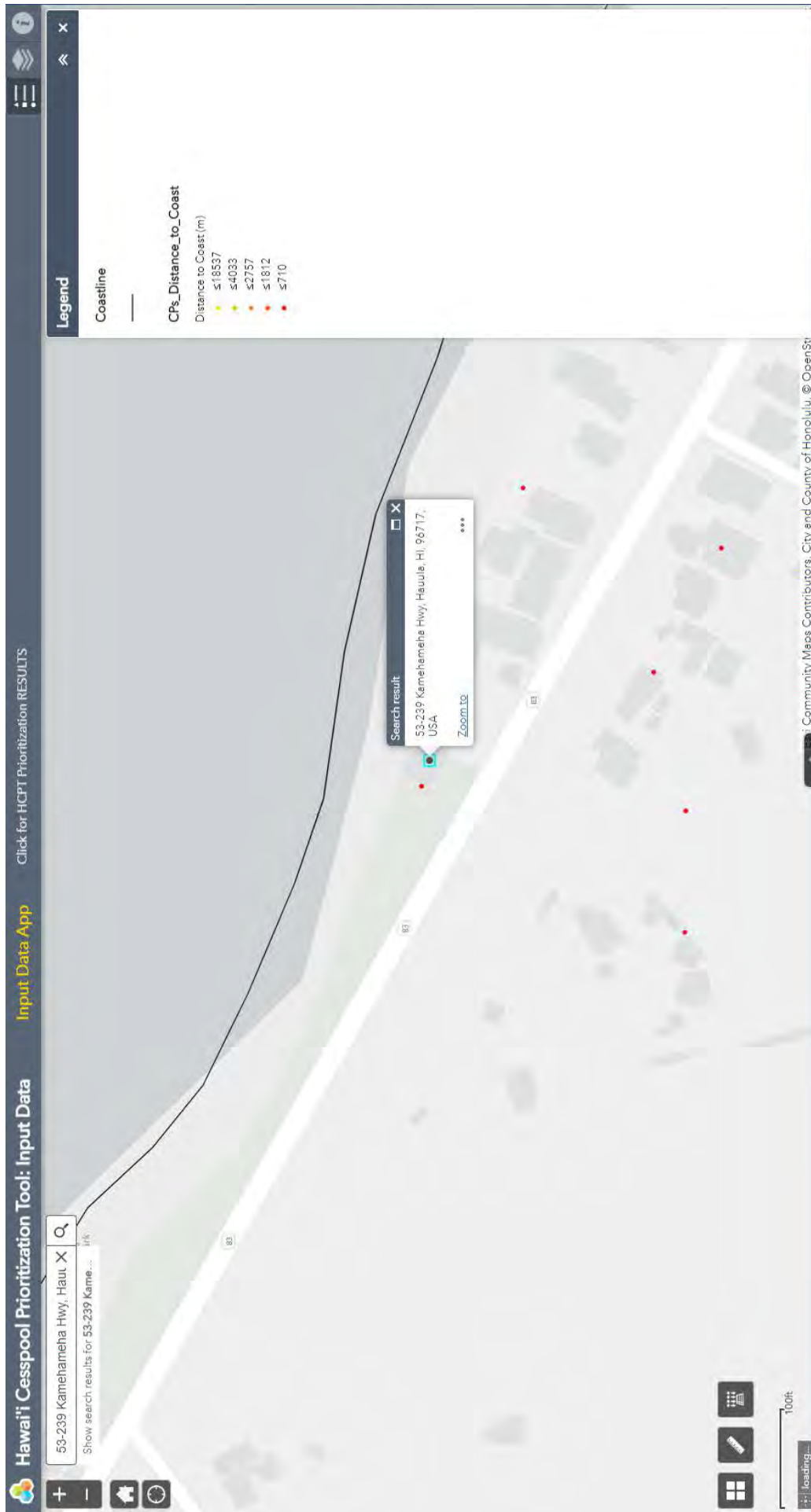
Information shown on these maps are derived from public records that are constantly undergoing change and do not replace a site survey, and is not warranted for content or accuracy.

Department of Planning & Permitting
650 S. King St, Ste 8, Honolulu, HI 96813
gis@honolulu.gov
Property Info Page FAQ

2010 Assessed Values as of October 1, 2009.

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Source: <https://seagrant.soest.hawaii.edu/app/>

Vrbo (<https://www.vrbo.com/>)



📍 Oahu, Hawaii, United States of America

📅 Check-in

📅 Check-out

👤 Guests

Search

[United States of America](#) / [Hawaii](#) / [Honolulu County](#)

property on the beach

❤ Save

🔗 Share



\$400 avg/night

4.3 (46 Reviews) : **Excellent!**

ⓘ Add dates for total pricing

Check In

Check Out

Guests

Check availability

🔄 **Free cancellation** up to **60 days before check-in**

Arish

Contact host

Property # 756132

Report this property

ⓘ Know before you go

Check Covid restrictions

[here \(https://apply.joinsherpa.com/travel-restrictions?affiliateId=vrbo\)](https://apply.joinsherpa.com/travel-restrictions?affiliateId=vrbo)

About this rental

House

1400 sq. ft

3 bedrooms

7 beds · Sleeps 10

2 bathrooms

2 full baths

Spaces

Kitchen · Living Room · Deck/Patio

property on the beach

Due to recent high surf, the owner and neighbours had to sand bag, beach front area. However its still safe to swim and walk on the sand tarps. the owner had to use them for environmental concerns.

3 bedrooms (2 queen bedrooms, 1 bedroom with 2 twins and 2 twins in loft)

2 full bathrooms

View more

Registration number: GE-087-360-7168-01, TA-087-360-7168-01

Hosted by Arish

Policies

Cancellation policy

100% refund of amount paid if you cancel at least 60 days before check-in.



If you have upcoming trips, you can manage or cancel your booking in your traveler account.

No refund if you cancel less than 60 days before check-in.

[View upcoming trip \(/traveler/th/bookings\)](#)

Free cancellation deadlines are in the property's timezone. Learn more about [cancellation policies](https://help.vrbo.com/articles/What-is-the-cancellation-policy).
(<https://help.vrbo.com/articles/What-is-the-cancellation-policy>).

100% refund

No refund

60 days before
check-in

Check in

Damage and incidentals

You will be responsible for any damage to the rental property caused by you or your party during your stay.

House Rules

Check in after 3:00 PM

Maximum overnight guests: 10

Check out before 10:00 AM

Minimum age to rent: 21



Children allowed: ages 0-17



No events allowed



No smoking allowed



No pets allowed

Still have questions?

Get a fast response about property amenities, check-in times, and general questions.

Chat now

Amenities

Internet



TV



Satellite or cable



Washer & dryer



Parking



No smoking

[View all 46 amenities](#)

46 Reviews

★ 4.3 • Excellent!

Renter beware

2/5

Stayed Dec 2022

Kimberly T.

I was greeted by the cleaning staff and a barking dog 20 minutes after my check-in time. House was not finished cleaning until 4pm. Once cleaning staff and dog left, I dusted and cleaned sinks of sand. There are large (2 inch) wasps in the house. Noticed that the wasps had been logged in the guestbook. Check-out was just as bad. Check out time was 11am, as I showed the cleaning lady who arrived and smoked outside the open windows at 10:15 am. Also received a message from the host that was kindly written but stated that. Check-out was at 10am.

I was assessed an additional fee of \$800 less than 2 weeks to my stay for additional guests over the 6 person limit. This was not on the original listing (booked 10 months prior to my stay) or in the new listing posted 3 months prior to my stay. The host could not articulate that I had to pay \$50 per night per additional person. I had to use VRBO customer service to get clarity. And VRBO confirmed that hosts can add fees at anytime.

The house is for sale. During my stay 2 people visited wanting to see the house. No thank you; not my job.

The house/furniture needs lots of TLC and pest control. You get what you pay for... \$800 in surprise fees or not.

Published Jan 16, 2023

Stunning Location

4/5

Stayed Dec 2022

Kathy S.

The location was beautiful. Being right on the beach and hearing the surf made the stay for our family. It was a pleasant break from noise and chaos of Honolulu. The Property had all the essentials

needed for a comfortable stay but could use a deep clean and refresh. Upstairs tv did not work and screen door was hard to open and close. Not everyone in our family was a fan of the neighbors chickens or the heavy road traffic but with some earplugs were able to sleep comfortably.

Published Jan 18, 2023

Vacation right on the beach

4/5

Stayed Nov 2022

Christian H. Oldenswort

Well, it is a unique spot. No doubt about it. Definately right on the beach. But that does not cover everything. Especially as the sea is coming closer and closer. Just a little storm and the waves hit the house, one stairway was gone. The cleaning was good in the average. But one bed was full of sand. By looking under the sheet it got even worse. Lots of rubble in the yard, which has been partly removed one day during our stay. Which means without any notice two man were working all day with an excavator. I know it has to be done, but it's still nothing one want's to see and hear during a vacation. And just a little renovation and replacing things like a damaged desk-chair would not hurt.

At the end of the day it has been a cool rental. No mistake. We would do it again. But the quality level should be improved a little.

Published Dec 23, 2022

Fit our needs

3/5

Stayed Nov 2022

Joy E.

Not updated and not fully cleaned when we arrived but it meet the needs of our large family with many different ages. Loved the location though the beach was just down an embankment and has significant erosion as noted in the listing. It is far from some of the spots we wanted to see. With traffic it was at least 40 minutes to different parts of the island. Overall we enjoyed our stay here.

Published Nov 28, 2022

**NOT A GOOD STAY FOR WARM MONTHS NO AC
NEEDS MORE STAND UP FANS ESPECIALLY UPSTAIRS
AND UP GRADES**

2/5 Stayed Oct 2022

Leilani F.

IT WAS ALRIGHT

Published Nov 10, 2022



1-5 of 46



Rooms & beds

Bedrooms: 3 (Sleeps: 10)

1

Bedroom 2
Queen



Bathrooms: 2

1

mbination tub/shower

Bathroom 2

Toilet · Combination tub/shower



Spaces

Kitchen

Living Room

Deck/Patio

Lawn/Garden

View all rooms & beds details

Map

Honolulu County, Hawaii,
United States of America
Detailed location provided
after booking

What’s nearby

- 1. Punalu'u Beach Park 0.1 mi
- 2. Hauula Beaches < 0.1 mi
- 3. Ahupua'a O Kahana State... 1.1 mi
- 4. Kaluanui Beach 1.6 mi
- 5. Swanzy Beach Park 1.8 mi
- 6. Crouching Lion 2.3 mi

1
-
< 6 >
of
12



Rates & availability

February 2023							March 2023						
S	M	T	W	T	F	S	S	M	T	W	T	F	S
			1	2	3	4				1	2	3	4
	5	6	7	8	9	10	11	5	6	7	8	9	10
<	12	13	14	15	16	17	18	12	13	14	15	16	17
	19	20	21	22	23	24	25	19	20	21	22	23	24

S	M	T	W	T	F	S	S	M	T	W	T	F	S
26	27	28					26	27	28	29	30	31	
		<small>THU</small>											

Taxes and fees are additional

Additional information about rental rates

Cleaning Fee	\$210
Additional Guest Fee	\$50

Hosted by Arish

Member since 2004



Languages: English

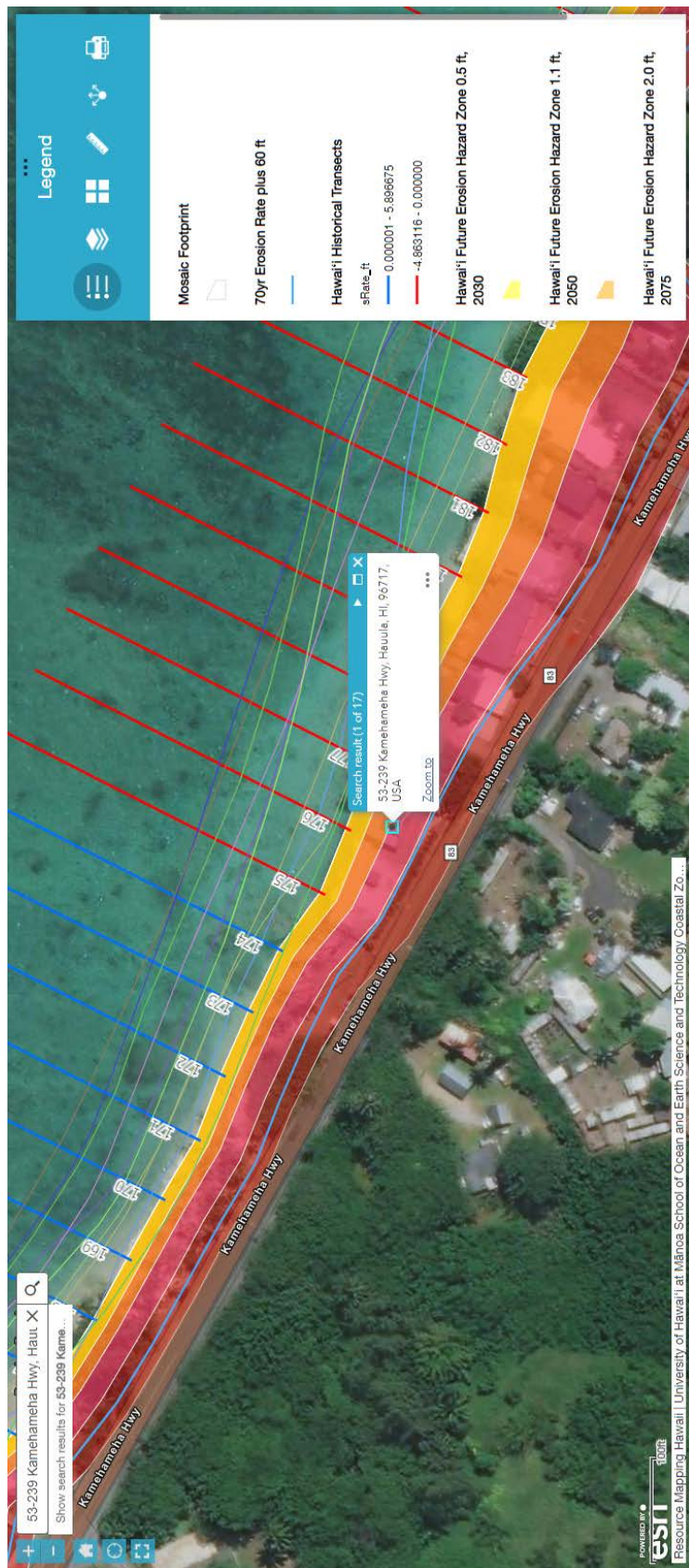
Contact host

[Home \(https://www.vrbo.com/vacation-rentals\)](https://www.vrbo.com/vacation-rentals). > [United States \(https://www.vrbo.com/vacation-rentals/usa\)](https://www.vrbo.com/vacation-rentals/usa). > [Hawaii \(https://www.vrbo.com/vacation-rentals/usa/hawaii\)](https://www.vrbo.com/vacation-rentals/usa/hawaii). > [Honolulu County \(https://www.vrbo.com/vacation-rentals/usa/hawaii/honolulu-county\)](https://www.vrbo.com/vacation-rentals/usa/hawaii/honolulu-county).

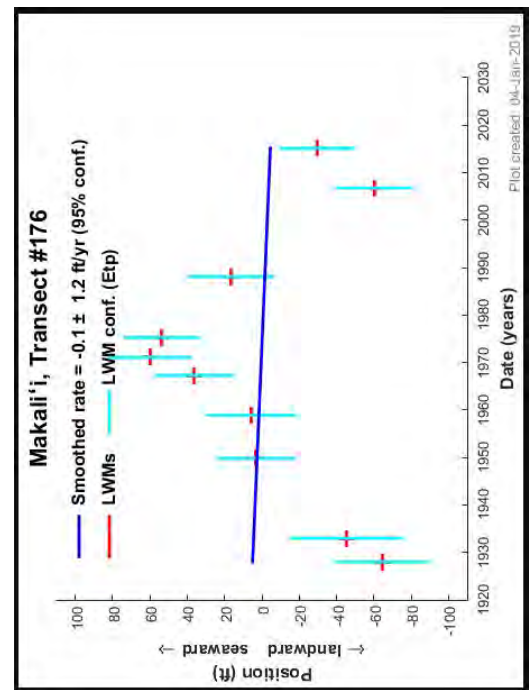
More vacation ideas

Rental Ideas

- [Oahu resorts \(https://www.vrbo.com/vacation-rentals/resorts/usa/hawaii/oahu\)](https://www.vrbo.com/vacation-rentals/resorts/usa/hawaii/oahu). |
- [Oahu vacation rentals \(https://www.vrbo.com/search/keywords:oahu-hawaii-united-states-of-america\)](https://www.vrbo.com/search/keywords:oahu-hawaii-united-states-of-america). |
- [Houses for rent Oahu \(https://www.vrbo.com/vacation-rentals/houses/usa/hawaii/oahu\)](https://www.vrbo.com/vacation-rentals/houses/usa/hawaii/oahu). |
- [Apartments for rent in Oahu \(https://www.vrbo.com/vacation-rentals/condos-and-apartments/usa/hawaii/oahu\)](https://www.vrbo.com/vacation-rentals/condos-and-apartments/usa/hawaii/oahu). |
- [Beach house rentals Oahu \(https://www.vrbo.com/search/keywords:oahu-hawaii-united-states-of-america/filter:30/filter:74\)](https://www.vrbo.com/search/keywords:oahu-hawaii-united-states-of-america/filter:30/filter:74). |
- [Oahu resorts on beach \(https://www.vrbo.com/search/keywords:oahu-hawaii-united-states-of-america/filter:30/filter:79\)](https://www.vrbo.com/search/keywords:oahu-hawaii-united-states-of-america/filter:30/filter:79). |
- [Beachfront rentals Oahu \(https://www.vrbo.com/vacation-rentals/beachfront/usa/hawaii/oahu\)](https://www.vrbo.com/vacation-rentals/beachfront/usa/hawaii/oahu). |
- [Beach rentals Oahu \(https://www.vrbo.com/vacation-rentals/beach/usa/hawaii/oahu\)](https://www.vrbo.com/vacation-rentals/beach/usa/hawaii/oahu). |
- [Cheap apartments Oahu \(https://www.vrbo.com/search/keywords:oahu-hawaii-united-states-of-america/filter:92/filter:1008\)](https://www.vrbo.com/search/keywords:oahu-hawaii-united-states-of-america/filter:92/filter:1008). |
- [Oahu villas \(https://www.vrbo.com/vacation-rentals/villas/usa/hawaii/oahu\)](https://www.vrbo.com/vacation-rentals/villas/usa/hawaii/oahu). |
- [Pet friendly rentals Oahu \(https://www.vrbo.com/vacation-rentals/pet-friendly/usa/hawaii/oahu\)](https://www.vrbo.com/vacation-rentals/pet-friendly/usa/hawaii/oahu). |



Source: <https://www.soest.hawaii.edu/crc/index.php/resources/hawaii-shoreline-study-web-map/>





2004/2005 Photo of Shoreline Area Fronting Subject Property



02/26/2007 OCCL Photo of Shoreline Area Fronting Subject Property and Temporary Erosion Control Measures (Emergency CDUP OA 06-02)



1/9/2013 OCCL Photo of Shoreline Area Fronting the Subject Property



1/9/2013 OCCL Photo of Shoreline Area Fronting the Subject Property



10/16/2015 OCCL Photo of Shoreline Area Fronting the Subject Property



10/16/2015 OCCL Photo of Shoreline Area Fronting the Subject Property



9/21/2016 OCCL Photo of Shoreline Area Fronting the Subject Property



9/21/2016 OCCL Photo of Shoreline Area Fronting the Subject Property



6/27/2017 OCCL Photo of Shoreline Area Fronting the Subject Property



6/27/2017 OCCL Photo of Shoreline Area Fronting the Subject Property



June 5, 2018

Rocks, damaged sand bags, vegetation removed; Log above in foreground needs to be removed



June 5, 2018

TMK: (1) 5-3-002:041



June 27, 2017

6/13/2018 Page and Photos of Shoreline Area Fronting Subject Property from Emergency CDUP OA 17-32 Completion Report



9/6/2018 OCCL Photo of Shoreline Area Fronting the Subject Property



11/17/2019 OCCL Photo of Shoreline Area Fronting the Subject Property



1/8/2020 OCCL Photo of Shoreline Area Fronting the Subject Property



6/8/2020 OCCL Photo of Shoreline Area Fronting the Subject Property

DAVID Y. IGE
GOVERNOR OF
HAWAII



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

SUZANNE D. CASE
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

KEKOA KALUHIWA
FIRST DEPUTY

JEFFREY T. PEARSON, P.E.
DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES
BOATING AND OCEAN RECREATION
BUREAU OF CONVEYANCES
COMMISSION ON WATER RESOURCE MANAGEMENT
CONSERVATION AND COASTAL LANDS
CONSERVATION AND RESOURCES ENFORCEMENT
ENGINEERING
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

DLNR:OCCL:NF

Emer. CDUA OA-17-32

Jeffrey Overton
Principal Planner, G70
925 Bethel Street, 5th floor
Honolulu, HI 96813

JUL - 3 2017

SUBJECT: Request for a Temporary Emergency Shoreline Protection Structure Located Seaward of 53-239 Kamehameha Highway, Punaluu, Oahu; Tax Map Key (1) 5-3-002:041

Dear Mr. Overton,

The Department of Land and Natural Resources (DLNR) is responding to your June 19, 2017 request to place geotextile SEAbblankets along approximately 80 feet of the shoreline seaward of the property located at 53-239 Kamehameha Highway. The proposed project is intended to protect the existing single-family residence from further coastal erosion and land loss while a longer-term erosion management solution is devised. You note in your request that G70 is coordinating a long-term erosion plan with the neighbors.

According to your letter, the existing single-family home is within approximately 12 to 15 feet of the exposed erosion scarp. You note under typical conditions a continuous erosion scarp is present along the entire shoreline, beginning at Punaluu Beach Park to the north and becomes progressively steeper and higher toward the subject property.

On May 19, 2006, the Department authorized an emergency temporary erosion control structure for the subject property (DLNR Ref. Emergency CDUA OA-06-02) for the placement of 48 SEA sandbags in a sloping revetment. This authorization was valid for five years and has expired. The Office of Conservation and Coastal Lands sent a notice to the subject property owner on February 13, 2013 (DLNR Ref. Violation OA-13-29), informing them of the alleged unauthorized materials identified seaward of the property and the possible violation of Hawaii Administrative Rules (HAR) §13-5. These unauthorized materials consisted of rocks, large and small sandbags, geotextile material and logs. A site inspection conducted on June 27, 2017 by Department staff revealed geotextile sandbags, geotextile material, logs, boulders and fishing nets seaward of the erosion scarp fronting the subject property (**Exhibit 1**). You note that all encroachments in the shoreline are being removed to satisfy the violation notice and for the shoreline certification process.

The DLNR understands that the proposed activities will occur on State land, seaward of where the shoreline would likely be determined based on HAR §13-222 *Shoreline Certifications*. You are

requesting to place four 15-foot wide sections of SEAbank blankets across the existing erosion scarp and edge of the lawn. The blankets would be connected by polypropylene rope. Along the top of the scarp, a 2-inch by 6-inch header board would be installed and the blankets would be tied to it at 2-foot intervals. The header board would be held in place with earth anchors at 2-foot intervals. The toe of the blanket would be buried approximately 2 feet below the sand level on the beach to hold the blankets in place. According to the map included with your request, the proposed structure would be placed along 80 feet of the shoreline fronting the single-family residence on the property. You note no imported sand, machinery or excavation is required for the proposed structure. You also note that typical best management practices will be implemented to protect the marine environment.

Prior to the placement of the proposed structure as described above, the property owner must remove the alleged unauthorized materials located seaward of the shoreline, including the geotextile sandbags, geotextile material, logs, boulders and fishing nets. **The DLNR authorizes the placement of the Emergency Temporary Shoreline Protection as described above along approximately 80 feet of the shoreline fronting the subject property,** in an effort to protect public health, welfare, and safety on the subject property under Hawaii Administrative Rules (HAR) §13-5-35, *Emergency Permits (a)* "Notwithstanding any provision of this chapter, the chairperson or deputy director of the department in the absence of the chairperson may authorize through an emergency permit any land use deemed to be essential to alleviate any emergency that is a threat to public health, safety, and welfare, including natural resources, and for any land use that is imminently threatened by natural hazards. These actions shall be temporary in nature to the extent that the threat to public health, safety, and welfare, including natural resources, is alleviated (e.g., erosion control, rockfall mitigation). The emergency action shall include contingencies for removal methods, estimates for duration of the activity, and future response plans if required by the department."

In addition, the proposed project is minor in scope and may be considered an exempt action under State environmental laws under HAR §11-200-8 and as provided in the approved Exemption List for the DLNR, *Exemption Class 1: 1. Mitigation of any hazardous conditions that present imminent danger as determined by the Department Director and that are necessary to protect public health, safety, welfare, or public trust resources; and 2. Upon determination by the Department Director that an emergency exists, emergency mitigation and restoration work to prevent damage from continuing to occur and to restore the topographical features and biological resources.* The Office of Conservation and Coastal Lands consulted with the Oahu District Land Office, who has concurred with the EA exemption for the proposed project.

Terms and Conditions

The DLNR authorizes the placement of the Emergency Temporary Shoreline Protection along the erosion scarp fronting the subject property, at TMK (1) 5-3-002:041, provided that you adhere to the following Terms and Conditions:

1. The geotextile sandbags, geotextile material, logs, boulders and fishing nets shall be removed before the placement of the temporary shoreline structure. The permittee will submit photographs and a summary report of the removal of the alleged unauthorized land uses to the DLNR Office of Conservation and Coastal Lands (OCCL) within thirty (30) days of removal;

2. It is understood that the Emergency Temporary Shoreline Protection is a temporary response to address a safety hazard to the existing single-family residence on the subject property, which is threatened by both chronic and seasonal beach erosion. **The material is authorized as a temporary erosion control measure for three (3) years** from the date of issuance of this letter. Subsequent erosion control efforts that call for modification, other than maintenance of the proposed structure will require a new application. At the end of 3 years the materials shall be removed;
3. The permittee will submit a completion report for the project to the OCCL within ninety (90) days of completion of construction of the temporary structure. It will summarize the construction and detail any deviation from the proposed plans and provide a summary of the beach conditions since installation. The report will also include a photo summary of the temporary structure and beach conditions with documentation of any alterations or repairs;
4. The permittee shall contact DLNR Land Division at (808) 587-0430 and secure a Right of Entry Permit incorporating the most current terms and conditions for the use of State lands, prior to entering onto State lands for this project;
5. The permittee shall comply with all applicable statutes, ordinances, rules, and regulations of the federal, state, and county governments, and applicable parts of this chapter;
6. The permittee, its successors and assigns, shall indemnify and hold the State of Hawaii harmless from and against any loss, liability, claim, or demand for property damage, personal injury, and death arising out of any act or omission of the applicant, its successors, assigns, officers, employees, contractors, and agents under this permit or relating to or connected with the granting of this permit;
7. The permittee shall comply with all applicable Department of Health administrative rules;
8. Unless otherwise authorized, any work or construction to be done on the land shall be completed within 180 days of the approval of such use. The permittee shall notify the department in writing at least 24 hours prior to initiating construction and when it is completed;
9. Work shall be conducted at low tide to the most practical extent possible and no work shall occur during high surf or ocean conditions that will create unsafe work or beach conditions;
10. Appropriate safety and notification procedures shall be carried out. This shall include high visibility safety fencing, tape or barriers to keep people away from the active construction site and a notification to the public informing them of the project. All barriers shall be removed once the project is complete to allow full public access laterally along the beach and alongshore walkway;
11. The applicant shall implement standard Best Management Practices (BMPs), including the ability to contain and minimize silt in nearshore waters and clean up fuel; fluid or oil spills immediately for projects authorized by this letter. Equipment must not be refueled in the shoreline area. If visible petroleum, persistent turbidity or other unusual substances are observed in the water as a result of the proposed operation, all work must cease immediately to ascertain the source of the substance;
12. All placed material shall be free of contaminants of any kind including: excessive silt, sludge, anoxic or decaying organic matter, turbidity, temperature or abnormal water

chemistry, clay, dirt, organic material, oil, floating debris, grease or foam or any other pollutant that would produce an undesirable condition to the beach or water quality;

13. The permittee understands and agrees that the permit does not convey any vested right(s) or exclusive privilege;
14. Transfer of ownership of the subject property includes the responsibility of the new owner to adhere to the terms and conditions of this authorization;
15. In issuing the permit, the Department and the Chairperson have relied on the information and data that the permittee has provided in connection with the permit application. If, subsequent to the issuance of the permit such information and data prove to be false, incomplete, or inaccurate, this permit may be modified, suspended, or revoked, in whole or in part, and the department may, in addition, institute appropriate legal proceedings;
16. Where any interference, nuisance, or harm may be caused, or hazard established by the use, the permittee shall be required to take measures to minimize or eliminate the interference, nuisance, harm, or hazard;
17. Obstruction of public roads, trails, lateral shoreline access, and pathways shall be avoided or minimized. If obstruction is unavoidable, the permittee shall provide alternative roads, trails, lateral beach access, or pathways acceptable to the Department;
18. For all landscaped areas, landscaping and irrigation shall be contained and maintained within the property, and shall under no circumstances extend seaward of the shoreline as defined in Hawaii Revised Statutes (HRS) §205A-1;
19. The activity shall not adversely affect a federally listed threatened or endangered species or a species proposed for such designation, or destroy or adversely modify its designated critical habitat;
20. The activity shall not substantially disrupt the movement of those species of aquatic life indigenous to the area, including those species, which normally migrate through the area;
21. No contamination of the marine or coastal environment (trash or debris) shall result from project-related activities authorized under this letter;
22. No motorized construction equipment is to be operated in the water at any time;
23. Artificial light from exterior lighting fixtures, including but not limited to floodlights, uplights, or spotlights used for decorative or aesthetic purposes, shall be prohibited if the light directly illuminates or is directed to project across property boundaries toward the shoreline and ocean waters, except as may be permitted pursuant to HRS §205A-71. All exterior lighting shall be shielded to protect the night sky;
24. The permittee acknowledges that the approved work shall not hamper, impede, or otherwise limit the exercise of traditional, customary, or religious practices of native Hawaiians in the immediate area, to the extent the practices are provided for by the Constitution of the State of Hawaii, and by Hawaii statutory and case law;
25. Should historic remains such as artifacts, burials or concentration of charcoal be encountered during construction activities, work shall cease immediately in the vicinity of the find, and the find shall be protected from further damage. The contractor shall immediately contact the State Historic Preservation Division (692-8015), which will assess

Jeffrey Overton

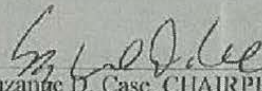
Emer. CDUA OA-17-32

the significance of the find and recommend an appropriate mitigation measure, if necessary;

26. At the conclusion of work, the applicant shall clean and restore the site to a condition acceptable to the Chairperson;
27. The DLNR reserves the right to impose additional terms and conditions on projects authorized under this letter, if it deems them necessary;
28. Failure to comply with any of these conditions shall render a permit void under the chapter, as determined by the Chairperson or BLNR.

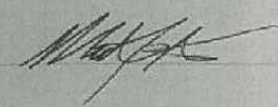
Should you have any questions pertaining to this letter, please contact Natalie Farinholt at (808) 587-0399 or Natalie.A.Farinholt@Hawaii.gov in the Office of Conservation and Coastal Lands.

Sincerely,


Suzanne D. Case, CHAIRPERSON
Board of Land and Natural Resources

CC: LAND
C&C, DPP

I concur with the conditions of this letter:

Applicant 

Date

6/13/18



EXHIBIT 1



EXHIBIT 1

DAVID Y. IGE
GOVERNOR OF HAWAII



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
OFFICE OF CONSERVATION AND COASTAL LANDS
POST OFFICE BOX 621
HONOLULU, HAWAII 96809

SUZANNE D. CASE
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

ROBERT K. MASUDA
FIRST DEPUTY

M. KALEO MANUEL
DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES
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CONSERVATION AND COASTAL LANDS
CONSERVATION AND RESOURCES ENFORCEMENT
ENGINEERING
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

VIA CERTIFIED MAIL/RETURN RECEIPT REQUESTED
7014 2120 0003 1908 0402

Ref: Emergency CDUP OA 17-32

SEP 30 2021

NOTIFICATION OF ALLEGED NONCOMPLIANCE

Matthew J Tang Trust
3110 Huelani Drive
Honolulu, HI 96822

SUBJECT: Alleged noncompliance with permit conditions
Emergency Conservation District Use Permit (CDUP) OA 17-32
53-239 Kamehameha Highway, Punalu'u, Hau'ula, O'ahu;
Makai of Tax Map Key:(1) 5-3-002:041

Dear Landowner:

NOTICE IS HEREBY GIVEN that your Emergency Conservation District Use Permit (CDUP) OA 17-32 no longer complies with its original terms and conditions.

The Department of Land and Natural Resources (DLNR) finds that:

1. On July 3, 2017 the Chair of the Board of Land and Natural Resources approved Emergency CDUP OA 17-32 for the parcel for a temporary erosion control measure fronting the subject property. The permit allowed for the placement of four fifteen-foot wide sections of SEABlankets along approximately eighty feet of shoreline that would be held in place by a 2-inch by 6-inch header board secured into the ground with earth anchors;
2. The structure extended seaward of the erosion scarp fronting the subject property and was determined to be on State-owned lands in the shoreline area;
3. The structures were authorized to remain in place for three (3) years;
4. Condition 2 of the permit reads: *It is understood that the Emergency Temporary Shoreline Protection is a temporary response to address a safety hazard to the existing single-family residence on the subject property, which is threatened by both chronic and seasonal beach erosion. The material is authorized as a temporary erosion control measure for three (3) years from the date of issuance of this letter. Subsequent erosion control efforts that call for modification, other than maintenance*

of the proposed structure will require a new application. At the end of 3 years the materials shall be removed;

5. The authorization expired on July 3, 2020;
6. OCCL staff conducted a site visit on May 25, 2021 and observed that the erosion control materials remained on State Land, and that new materials, including rocks, appear to have been placed seaward of the subject property. A photograph from this May 25, 2021 site visit can be found below as *Figure 1*;
7. OCCL has not authorized any plans to modify the structure, place additional materials, nor to extend the authorization;
8. Condition 4 of the permit reads: *The permittee shall contact DLNR Land Division at (808) 587-0430 and secure a Right of Entry Permit incorporating the most current terms and conditions for the use of State lands, prior to entering onto State lands for this project;*
9. Our records and research indicate that the Right of Entry expired on July 18, 2018;
10. Condition 14 of the permit reads: *Transfer of ownership of the subject property includes the responsibility of the new owner to adhere to the terms and conditions of this authorization;*
11. Condition 28 of the permit reads: *Failure to comply with any of these conditions shall render a permit void under the chapter, as determined by the Chairperson or BLNR.*



Figure 1: Aerial Image of Subject Property, Taken May 25, 2021

DISCUSSION

Based upon the above, it appears that the subject erosion control structures no longer comply with the terms and conditions of Emergency CDUP OA 17-32.

Further, the emergency situation for which the structure was originally authorized has existed over an extended period of time and appears likely to continue over an indefinite timeframe such that we now consider the situation an unmanaged hazardous condition. If you apply for a new emergency authorization, you will be required to demonstrate that a concerted effort is being undertaken to develop and implement a long-term solution which will enable removal of the temporary erosion control measures.

For the purposes of such a requirement, "concerted effort" shall mean a bona fide planning effort involving the employment of professional planners, engineers, or consultants to develop and implement a long-term solution whether it involves relocation or abandonment, beach restoration, or some other form of shoreline management. A surety bond or other legal or financial assurance may also be required as part of any potential authorizations for a time extension to guarantee removal of temporary uses at the expiration of any permitted time extension that may be authorized.

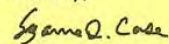
To summarize, the emergency authorization has expired, and the structure authorized under Emergency CDUP OA 17-32 is no longer in compliance nor has active authorization to sit upon State-owned lands.

Please provide this office with a written report which describes how you intend to correct the situation. The report should be submitted to DLNR's Office of Conservation and Coastal Lands (OCCL) within thirty days of the date of this letter. The report shall describe the current condition of the structure, how the structure has been altered over time, and the plans and intentions of the structure in the near future. The plans for the future of the structure could include, but are not limited to, how and when you will either remove the structure in its entirety, if and when you will seek another emergency authorization, and/or how you plan to return the noncompliant structure to its original plan design that this office approved.

Failure to act promptly on these matters may result in this matter being forwarded to the Board of Land and Natural Resources for formal enforcement action.

Please submit all responses and reports in writing to Salvatore Saluga at salvatore.j.saluga@hawaii.gov. Please note that any information provided may be used in civil proceedings.

Sincerely,



SUZANNE D. CASE Chair
Board of Land and Natural Resources

Copy: DLNR Land Division, O'ahu Office
C&C Honolulu, Dept. Planning & Permitting
DOCARE
G70, c/o Jeff Overton

attachment: Emergency CDUP OA 17-32

Matthew J Tang Trust
3110 Huelani Drive
Honolulu, Hawaii 96822

October 25, 2021

Suzanne Case, Chair
State of Hawaii, Board of Land and Natural Resources
1151 Punchbowl St., Rm 131; P.O. Box 621
Honolulu, HI 96809-0621
Attn: Salvatore Saluga, OCCL salvatore.saluga@hawaii.gov

**Subject: Matthew J Tang Trust
Emergency Conservation District Use Permit (CDUP) OA 17-32
53-239 Kamehameha Highway, Punaluu, Oahu
Makai of TMK (1) 5-3-002:041**

Dear Chair Case and Mr. Saluga,

Thank you for letter dated September 30, 2021. Please note that we receive your letters 10-14 days after the date posted on the letterhead. We truly appreciate the patience of the State to work through the issues necessary to address shoreline protection at our Punaluu property. The ocean washes currently under the seaward edge of our home during high wave events, and the shoreline is only a few feet seaward of the home. Further erosion could threaten the structure during the upcoming winter.

Your letter requests a response to address our shoreline erosion condition, which necessitates reauthorized emergency protection as we continue our concerted effort to implement a long-term solution. We are engaged with G70 planners and environmental consultants to address the planning and permitting requirements. A range of short-term and long-term solutions are being studied, including stabilization of the shoreline, adjustments to the residential structure, and beach augmentation.

We have ongoing plans for the construction of a sloping rock revetment along the frontage of this property, enabling us to stabilize our shoreline and prevent the State Highway from erosion threat. There is a pending contested case hearing with the City and County of Honolulu Department of Planning and Permitting which we anticipate will reverse the decision to deny the shoreline variance in 2019. This would have allowed our home to be protected in a similar fashion to the 38 homes along the adjacent Makalii Point all of which enjoy boulder stack protection. There is a supplemental pilot plan being developed with the neighbors for beach nourishment and sandbag groins along this section of the coast.

We note that the City DPP in their denial of the variance in 2019 specifically indicated that our home could continue to obtain emergency protection from BLNR. We respectfully request your cooperation in allowing for our family to maintain emergency authorization to protect the property in the near term.

Mahalo for your understanding and support in this very difficult situation. Please contact me at 808-256-4268 hawaiiantiger1@yahoo.com with a copy to our planner Jeff Overton jeff@g70.design

Aloha,

Matthew Tang

DAVID Y. IGE
GOVERNOR OF HAWAII



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

SUZANNE D. CASE
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

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FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

REF: OCCL: TF

ENF: OA 23-14

NOTICE OF ALLEGED VIOLATION

Sep 30, 2022

CERTIFIED MAIL / RETURN RECEIPT
7020 2450 0000 0357 8474

MATTHEW J TANG TRUST
Matthew J Tang, Trustee
3110 Huelani Drive
Honolulu, HI 96822

SUBJECT: Alleged Unauthorized Land Use Within the Conservation District
Located at 53-239 Kamehameha Highway
Punaluu, Koolauloa, Oahu
Tax Map Key (TMK): (1) 5-3-002:041 (seaward)

Dear Landowners:

It has come to the Department of Land and Natural Resources (DLNR) Office of Conservation and Coastal Lands' (OCCL) attention that there appears to be unauthorized work and materials within the Conservation District fronting the location listed above.

On July 3, 2017, the Chair of the Board of Land and Natural Resources (BLNR) approved Emergency CDUP OA 17-32 for the placement of temporary erosion control measures fronting the subject property. The permit allowed for the placement of four (4) fifteen-foot wide sections of SEAbankets along approximately eighty (80) feet of shoreline that would be held in place by a 2-inch by 6-inch header board secured into the ground with earth anchors. The material was authorized as a temporary erosion control measure for three (3) years from the date of issuance of the letter. The permit was contingent upon the landowner removing the unauthorized materials consisting of rocks/boulders, large and small sandbags, geotextile materials, logs, and fishing nets seaward of the erosion scarp fronting the subject property (ENF: OA 13-29). The authorizations granted under Emergency CDUP OA 17-32 expired on July 3, 2020.

On September 30, 2021, the Chair of the BLNR issued the landowner(s) of the subject property a NOTIFICATION OF ALLEGED NONCOMPLIANCE regarding alleged noncompliance with the permit conditions of Emergency CDUP OA 17-32. The notification noted that the structure was occupying State-owned lands without active authorization. See **Exhibit 1**.

Based on OCCL's visits to the area, it appears that the temporary erosion control measure(s) still occupy State-owned lands without active authorization. Additionally, Staff notes that it appears unauthorized materials such as rocks/boulders and small polypropylene bags are being utilized in the expired structure. See **Exhibit 2**.

September 28, 2022 – Alleged Unauthorized Activity

A site inspection on September 28, 2022, revealed a concrete rubble masonry (CRM) wall had been constructed, concrete had been poured to fill-in the eroded section under the dwelling and its deck, and the installation of additional erosion control materials in the shoreline area seaward of TMK: (1) 5-3-002:041. Staff observed a new CRM wall had been constructed seaward of the vegetation line along the northern portion of the property. Additionally, rocks/boulders and small polypropylene bags were being utilized in the expired temporary erosion control structure. Under the deck and dwelling, concrete had been poured to secure the rocks/boulders and small polypropylene bags as well as fill the void created by erosion and scour. Staff also observed ongoing installation of additional erosion control materials consisting of a geotextile tube (or burrito). Photos of the alleged unauthorized work, materials, and encroachments on State-owned lands are attached. See **Exhibit 2**.

According to OCCL files, there are no authorizations for these land uses. Pursuant to Hawaii Administrative Rules (HAR) §13-5-2, "*land use*" is defined as (1) *the placement or erection of any solid material on land if that material remains on the land more than thirty days, or which causes a permanent change in the land area on which it occurs*; (2) *the grading, removing, harvesting, dredging, mining, or extraction of any material or natural resource on land*; (3) *the subdivision of land*; or (4) *the construction, reconstruction, demolition, or alteration of any structure, building, or facility on land*. Additionally, pursuant to HAR §13-5-2, the "*Shoreline*" is defined as *the upper reaches of the wash of the waves, other than storm and seismic waves, at high tide during the season of the year in which the highest wash of the waves occurs, usually evidenced by the edge of vegetation growth, or the upper limit of debris left by the wash of the waves, or as otherwise defined in section 205A-1, Hawaii Revised Statutes (HRS)*". Lands makai of the shoreline are under the jurisdiction of the State of Hawaii DLNR.

NOTICE IS HEREBY GIVEN that you may be in violation of Hawaii Administrative Rules (HAR) Title 13, Chapter 5, entitled Conservation District providing for land uses within the Conservation District, enacted pursuant to the Hawaii Revised Statutes (HRS), Chapter 183C.

The Department of Land and Natural Resources (DLNR) has reason to believe that:

1. The CRM wall, unauthorized erosion control materials, and debris has been placed seaward of TMK: (1) 5-3-002:041 and located within the State Land Use Conservation District, Resource Subzone;
2. Pursuant to §13-5-22 P-15 (D-1), HAR, "Shoreline Erosion Control " is a regulated land use as stated below:
 - a. *Seawall, revetment, groin, or other coastal erosion control structure or device, including sand placement, to control erosion of land or inland area by coastal waters, provided that the applicant shows that (1) the applicant would be deprived of all reasonable use of the land or building without the permit; (2) the use would not adversely affect beach processes or lateral public access along the shoreline, without adequately compensating the State for its loss; or (3) public facilities (e.g., public roads) critical to public health, safety, and welfare would be severely damaged or destroyed without a shoreline erosion control structure, and there are no reasonable alternatives (e.g., relocation). Requires a shoreline certification;*
3. These land uses were not authorized by the Department of Land and Natural Resources under Chapter 13-5, HAR; and

REF: OCCL: TF
MATTHEW J TANG TRUST
Matthew J Tang, Trustee

ENF: OA 23-14

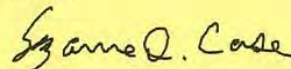
4. The land uses have occurred on public land owned by the State without authorization or permission from the State as landowner.

We recommend that you remove the erosion control structures and unauthorized CRM wall located within the shoreline area within 30 days of receipt of this notice. Pursuant to HRS, 171-6, the Board of Land and Natural Resources may bring such actions as may be necessary to remove or remedy encroachments upon public lands. Any person causing an encroachment upon public land shall: (a) Be fined not more than \$1,000 a day for the first offense; (b) Be fined not less than \$1,000 nor more than \$4,000 per day upon the second offense and thereafter; (c) If required by the board, restore the land to its original condition if altered and assume the costs thereof; (d) Assume such costs as may result from adverse effects from such restoration; and (e) Be liable for administrative costs incurred by the Department and for payment of damages.

Additionally, with regards to alleged unauthorized land use(s) in the State Land Use Conservation District, pursuant to 183C-7(b), HRS, the Board of Land and Natural Resources (Board) may subject you to fines of up to \$15,000.00 per violation in addition to administrative costs and costs associated with land or habitat restoration, or both, if required, and damages to state land. Should you fail to immediately cease such activity after written or verbal notification from the department, willful violation may incur an additional fine of up to \$15,000.00 per day per violation for each day in which the violation persists. In addition, criminal penalties may also be assessed. Failure to comply with any part of the letter mentioned above will result in the matter being forwarded to the Board for formal action.

Please respond to this Notice in writing within thirty (30) days. Please note any information provided may be used in civil proceedings. If we do not receive a response within thirty (30) days, we will proceed with enforcement actions. Should you have any questions regarding this matter, contact Trevor Fitzpatrick of our Office of Conservation and Coastal Lands at trevor.j.fitzpatrick@hawaii.gov.

Sincerely,



Suzanne D. Case, Chairperson
Board of Land and Natural Resources



CC: Oahu Board Member
DOCARE (Oahu)
Oahu District Land Office
DCCA - Regulated Industries Complaints Office
City & County of Honolulu, Department of Planning and Permitting
G70 – Attn: Jeff Overton

NEIL ABERCROMBIE
GOVERNOR OF HAWAII



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

WILLIAM J. AILA, JR.
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

ESTHER KIA'AINA
FIRST DEPUTY

WILLIAM M. TAM
DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES
BOATING AND OCEAN RECREATION
BUREAU OF CONVEYANCE
COMMISSION ON WATER RESOURCE MANAGEMENT
CONSERVATION AND COASTAL LANDS
CONSERVATION AND RESOURCES ENFORCEMENT
ENGINEERING
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAIKOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

REF:OCCL:TM

NOTICE OF ALLEGED VIOLATION & ORDER

ENF: OA 13-29

FEB 13 2013

CERTIFIED MAIL/RETURN RECEIPT

7009 3410 0000 4942 9422

Matthew J. Tang
53-239 Kamehameha Hwy
Hau'ula, HI 96717

SUBJECT: Alleged Unauthorized Land Use in the Conservation District Located Makai of
53-239 Kamehameha Hwy, Punalu'u, O'ahu, TMK: 5-3-002:041

Dear Landowner:

NOTICE IS HEREBY GIVEN that you may be in violation of Hawai'i Administrative Rules (HAR) Title 13, Chapter 5, entitled Conservation District providing for land use within the Conservation District, enacted pursuant to Chapter 183C, Hawaii Revised Statutes (HRS).

Staff conducted a site visit on January 9, 2013, at which time unauthorized materials were identified within the Conservation District seaward of the subject property. Specifically, there were rocks, large and small sandbags, geotextile material and logs placed on the beach. The Department of Land and Natural Resources (DLNR) has determined that:

1. The location of the alleged unauthorized land use(s) occurred in the shoreline area within the Resource subzone of the Conservation District;
2. The following land uses were conducted on the shoreline without our knowledge or authorization: Placement of rocks, large and small sandbags, geotextile material and logs; and
3. This land use was not authorized by the Department of Land and Natural Resources under Chapter 13-5, HAR.

In 1999, the Board of Land and Natural Resources adopted the Hawaii Coastal Erosion Management Plan (COEMAP) and approved specific criteria to guide staff to resolve cases involving unauthorized shoreline structures. You will find COEMAP on our website at <http://hawaii.gov/dlnr/occl/documents-forms/policies-plans/coemap.pdf>. For shoreline structures built after 1999, there is a NO TOLERANCE policy. Thus, in order to resolve this matter, the unauthorized materials must be removed. Should the use of heavy equipment on the beach be required to support the removal of the unauthorized material, please inform the Department prior to initiation.

Exhibit 1

If you fail to remove the rocks, large and small sandbags, geotextile material and logs, the Board of Land and Natural Resources may subject you to fines of up to \$15,000.00 per violation in addition to administrative costs, pursuant to Chapter 183C-7, Hawaii Revised Statutes. Willful violation may incur an additional fine of up to \$15,000.00 per day per violation for each day in which the violation persists. **In order to resolve this matter and avoid any penalties, please remove the unauthorized materials within 90-days of receipt of this letter.**

The Department acknowledges this coastline has experienced chronic long-term erosion. The Department further acknowledges the potential for future erosion in the area and strongly encourages the property owner to consult with a licensed engineering firm to explore alternatives for short-term and long-term erosion management measures.

You may wish to discuss this matter with us. Please note any information provided may be used in civil proceedings. Should you have any questions regarding this correspondence, contact Tiger Mills of our Office of Conservation and Coastal Lands at 808-587-0382.

Sincerely,



WILLIAM J. AILA, Jr., CHAIRPERSON
Department of Land and Natural Resources

C: ODLO
City & County of Honolulu, DPP
DOCARE - John Silberstein

Exhibit 1



Figure 1: Small and large geotextile sand bags, fabric, rocks, logs (January 9, 2013)



Figure 2: Small and large geotextile sand bags, fabric, rocks, logs (January 9, 2013)

²
Exhibit 1

DAVID Y. IGE
GOVERNOR OF
HAWAII



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

SUZANNE D. CASE
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

KEKOA KALUHIWA
FIRST DEPUTY

JEFFREY T. PEARSON, P.E.
DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES
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NAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

DLNR:OCCL:NF

Emer. CDUA OA-17-32

Jeffrey Overton
Principal Planner, G70
925 Bethel Street, 5th floor
Honolulu, HI 96813

JUL - 3 2017

SUBJECT: Request for a Temporary Emergency Shoreline Protection Structure Located Seaward of 53-239 Kamehameha Highway, Punaluu, Oahu; Tax Map Key (1) 5-3-002:041

Dear Mr. Overton,

The Department of Land and Natural Resources (DLNR) is responding to your June 19, 2017 request to place geotextile SEAbankers along approximately 80 feet of the shoreline seaward of the property located at 53-239 Kamehameha Highway. The proposed project is intended to protect the existing single-family residence from further coastal erosion and land loss while a longer-term erosion management solution is devised. You note in your request that G70 is coordinating a long-term erosion plan with the neighbors.

According to your letter, the existing single-family home is within approximately 12 to 15 feet of the exposed erosion scarp. You note under typical conditions a continuous erosion scarp is present along the entire shoreline, beginning at Punaluu Beach Park to the north and becomes progressively steeper and higher toward the subject property.

On May 19, 2006, the Department authorized an emergency temporary erosion control structure for the subject property (DLNR Ref. Emergency CDUA OA-06-02) for the placement of 48 SEA sandbags in a sloping revetment. This authorization was valid for five years and has expired. The Office of Conservation and Coastal Lands sent a notice to the subject property owner on February 13, 2013 (DLNR Ref. Violation OA-13-29), informing them of the alleged unauthorized materials identified seaward of the property and the possible violation of Hawaii Administrative Rules (HAR) §13-5. These unauthorized materials consisted of rocks, large and small sandbags, geotextile material and logs. A site inspection conducted on June 27, 2017 by Department staff revealed geotextile sandbags, geotextile material, logs, boulders and fishing nets seaward of the erosion scarp fronting the subject property (**Exhibit 1**). You note that all encroachments in the shoreline are being removed to satisfy the violation notice and for the shoreline certification process.

The DLNR understands that the proposed activities will occur on State land, seaward of where the shoreline would likely be determined based on HAR §13-222 *Shoreline Certifications*. You are

Exhibit 1

requesting to place four 15-foot wide sections of SEAbankets across the existing erosion scarp and edge of the lawn. The blankets would be connected by polypropylene rope. Along the top of the scarp, a 2-inch by 6-inch header board would be installed and the blankets would be tied to it at 2-foot intervals. The header board would be held in place with earth anchors at 2-foot intervals. The toe of the blanket would be buried approximately 2 feet below the sand level on the beach to hold the blankets in place. According to the map included with your request, the proposed structure would be placed along 80 feet of the shoreline fronting the single-family residence on the property. You note no imported sand, machinery or excavation is required for the proposed structure. You also note that typical best management practices will be implemented to protect the marine environment.

Prior to the placement of the proposed structure as described above, the property owner must remove the alleged unauthorized materials located seaward of the shoreline, including the geotextile sandbags, geotextile material, logs, boulders and fishing nets. **The DLNR authorizes the placement of the Emergency Temporary Shoreline Protection as described above along approximately 80 feet of the shoreline fronting the subject property**, in an effort to protect public health, welfare, and safety on the subject property under Hawaii Administrative Rules (HAR) §13-5-35, *Emergency Permits* (a) *"Notwithstanding any provision of this chapter, the chairperson or deputy director of the department in the absence of the chairperson may authorize through an emergency permit any land use deemed to be essential to alleviate any emergency that is a threat to public health, safety, and welfare, including natural resources, and for any land use that is imminently threatened by natural hazards. These actions shall be temporary in nature to the extent that the threat to public health, safety, and welfare, including natural resources, is alleviated (e.g., erosion control, rockfall mitigation). The emergency action shall include contingencies for removal methods, estimates for duration of the activity, and future response plans if required by the department."*

In addition, the proposed project is minor in scope and may be considered an exempt action under State environmental laws under HAR §11-200-8 and as provided in the approved Exemption List for the DLNR, *Exemption Class 1: 1. Mitigation of any hazardous conditions that present imminent danger as determined by the Department Director and that are necessary to protect public health, safety, welfare, or public trust resources; and 2. Upon determination by the Department Director that an emergency exists, emergency mitigation and restoration work to prevent damage from continuing to occur and to restore the topographical features and biological resources.* The Office of Conservation and Coastal Lands consulted with the Oahu District Land Office, who has concurred with the EA exemption for the proposed project.

Terms and Conditions

The DLNR authorizes the placement of the Emergency Temporary Shoreline Protection along the erosion scarp fronting the subject property, at TMK (1) 5-3-002:041, provided that you adhere to the following Terms and Conditions:

1. The geotextile sandbags, geotextile material, logs, boulders and fishing nets shall be removed before the placement of the temporary shoreline structure. The permittee will submit photographs and a summary report of the removal of the alleged unauthorized land uses to the DLNR Office of Conservation and Coastal Lands (OCCL) within thirty (30) days of removal;

Exhibit 1

2. It is understood that the Emergency Temporary Shoreline Protection is a temporary response to address a safety hazard to the existing single-family residence on the subject property, which is threatened by both chronic and seasonal beach erosion. **The material is authorized as a temporary erosion control measure for three (3) years** from the date of issuance of this letter. Subsequent erosion control efforts that call for modification, other than maintenance of the proposed structure will require a new application. At the end of 3 years the materials shall be removed;
3. The permittee will submit a completion report for the project to the OCCL within ninety (90) days of completion of construction of the temporary structure. It will summarize the construction and detail any deviation from the proposed plans and provide a summary of the beach conditions since installation. The report will also include a photo summary of the temporary structure and beach conditions with documentation of any alterations or repairs;
4. The permittee shall contact DLNR Land Division at (808) 587-0430 and secure a Right of Entry Permit incorporating the most current terms and conditions for the use of State lands, prior to entering onto State lands for this project;
5. The permittee shall comply with all applicable statutes, ordinances, rules, and regulations of the federal, state, and county governments, and applicable parts of this chapter;
6. The permittee, its successors and assigns, shall indemnify and hold the State of Hawaii harmless from and against any loss, liability, claim, or demand for property damage, personal injury, and death arising out of any act or omission of the applicant, its successors, assigns, officers, employees, contractors, and agents under this permit or relating to or connected with the granting of this permit;
7. The permittee shall comply with all applicable Department of Health administrative rules;
8. Unless otherwise authorized, any work or construction to be done on the land shall be completed within 180 days of the approval of such use. The permittee shall notify the department in writing at least 24 hours prior to initiating construction and when it is completed;
9. Work shall be conducted at low tide to the most practical extent possible and no work shall occur during high surf or ocean conditions that will create unsafe work or beach conditions;
10. Appropriate safety and notification procedures shall be carried out. This shall include high visibility safety fencing, tape or barriers to keep people away from the active construction site and a notification to the public informing them of the project. All barriers shall be removed once the project is complete to allow full public access laterally along the beach and alongshore walkway;
11. The applicant shall implement standard Best Management Practices (BMPs), including the ability to contain and minimize silt in nearshore waters and clean up fuel; fluid or oil spills immediately for projects authorized by this letter. Equipment must not be refueled in the shoreline area. If visible petroleum, persistent turbidity or other unusual substances are observed in the water as a result of the proposed operation, all work must cease immediately to ascertain the source of the substance;
12. All placed material shall be free of contaminants of any kind including: excessive silt, sludge, anoxic or decaying organic matter, turbidity, temperature or abnormal water

<i>Exhibit 1</i>

- chemistry, clay, dirt, organic material, oil, floating debris, grease or foam or any other pollutant that would produce an undesirable condition to the beach or water quality;
13. The permittee understands and agrees that the permit does not convey any vested right(s) or exclusive privilege;
 14. Transfer of ownership of the subject property includes the responsibility of the new owner to adhere to the terms and conditions of this authorization;
 15. In issuing the permit, the Department and the Chairperson have relied on the information and data that the permittee has provided in connection with the permit application. If, subsequent to the issuance of the permit such information and data prove to be false, incomplete, or inaccurate, this permit may be modified, suspended, or revoked, in whole or in part, and the department may, in addition, institute appropriate legal proceedings;
 16. Where any interference, nuisance, or harm may be caused, or hazard established by the use, the permittee shall be required to take measures to minimize or eliminate the interference, nuisance, harm, or hazard;
 17. Obstruction of public roads, trails, lateral shoreline access, and pathways shall be avoided or minimized. If obstruction is unavoidable, the permittee shall provide alternative roads, trails, lateral beach access, or pathways acceptable to the Department;
 18. For all landscaped areas, landscaping and irrigation shall be contained and maintained within the property, and shall under no circumstances extend seaward of the shoreline as defined in Hawaii Revised Statutes (HRS) §205A-1;
 19. The activity shall not adversely affect a federally listed threatened or endangered species or a species proposed for such designation, or destroy or adversely modify its designated critical habitat;
 20. The activity shall not substantially disrupt the movement of those species of aquatic life indigenous to the area, including those species, which normally migrate through the area;
 21. No contamination of the marine or coastal environment (trash or debris) shall result from project-related activities authorized under this letter;
 22. No motorized construction equipment is to be operated in the water at any time;
 23. Artificial light from exterior lighting fixtures, including but not limited to floodlights, uplights, or spotlights used for decorative or aesthetic purposes, shall be prohibited if the light directly illuminates or is directed to project across property boundaries toward the shoreline and ocean waters, except as may be permitted pursuant to HRS §205A-71. All exterior lighting shall be shielded to protect the night sky;
 24. The permittee acknowledges that the approved work shall not hamper, impede, or otherwise limit the exercise of traditional, customary, or religious practices of native Hawaiians in the immediate area, to the extent the practices are provided for by the Constitution of the State of Hawaii, and by Hawaii statutory and case law;
 25. Should historic remains such as artifacts, burials or concentration of charcoal be encountered during construction activities, work shall cease immediately in the vicinity of the find, and the find shall be protected from further damage. The contractor shall immediately contact the State Historic Preservation Division (692-8015), which will assess

<i>Exhibit 1</i>

Jeffrey Overton

Emer. CDUA OA-17-32

the significance of the find and recommend an appropriate mitigation measure, if necessary;

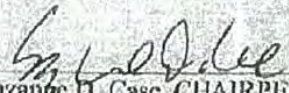
26. At the conclusion of work, the applicant shall clean and restore the site to a condition acceptable to the Chairperson;

27. The DLNR reserves the right to impose additional terms and conditions on projects authorized under this letter, if it deems them necessary;

28. Failure to comply with any of these conditions shall render a permit void under the chapter, as determined by the Chairperson or BLNR.


Should you have any questions pertaining to this letter, please contact Natalie Farinholt at (808) 587-0399 or Natalie.A.Farinholt@Hawaii.gov in the Office of Conservation and Coastal Lands.

Sincerely,


Suzanne D. Case, CHAIRPERSON
Board of Land and Natural Resources

CC: LAND
C&C, DPP

I concur with the conditions of this letter:

Applicant 

Date

6/18/18

Exhibit 1

Jeffrey Overton

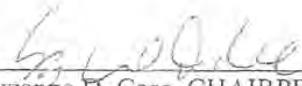
Emer. CDUA OA-17-32

the significance of the find and recommend an appropriate mitigation measure, if necessary;

26. At the conclusion of work, the applicant shall clean and restore the site to a condition acceptable to the Chairperson;
27. The DLNR reserves the right to impose additional terms and conditions on projects authorized under this letter, if it deems them necessary;
28. Failure to comply with any of these conditions shall render a permit void under the chapter, as determined by the Chairperson or BLNR.

Should you have any questions pertaining to this letter, please contact Natalie Farinholt at (808) 587-0399 or Natalie.A.Farinholt@Hawaii.gov in the Office of Conservation and Coastal Lands.

Sincerely,


Suzanne D. Case, CHAIRPERSON
Board of Land and Natural Resources

CC: LAND
C&C, DPP

I concur with the conditions of this letter:

Applicant _____ Date _____

Exhibit 1



EXHIBIT 1
Exhibit 1



EXHIBIT 1

Exhibit 1

DAVID Y. IGE
GOVERNOR OF HAWAII



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
OFFICE OF CONSERVATION AND COASTAL LANDS
POST OFFICE BOX 621
HONOLULU, HAWAII 96809

SUZANNE D. CASE
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

ROBERT K. MASUDA
FIRST DEPUTY

M. KALEO MANUEL
DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES
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FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAOLOAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

VIA CERTIFIED MAIL/RETURN RECEIPT REQUESTED
7014 2120 0003 1908 0402

Ref: Emergency CDUP OA 17-32

SEP 30 2021

NOTIFICATION OF ALLEGED NONCOMPLIANCE

Matthew J Tang Trust
3110 Huelani Drive
Honolulu, HI 96822

SUBJECT: Alleged noncompliance with permit conditions
Emergency Conservation District Use Permit (CDUP) OA 17-32
53-239 Kamehameha Highway, Punalu'u, Hau'ula, O'ahu;
Makai of Tax Map Key:(1) 5-3-002:041

Dear Landowner:

NOTICE IS HEREBY GIVEN that your Emergency Conservation District Use Permit (CDUP) OA 17-32 no longer complies with its original terms and conditions.

The Department of Land and Natural Resources (DLNR) finds that:

1. On July 3, 2017 the Chair of the Board of Land and Natural Resources approved Emergency CDUP OA 17-32 for the parcel for a temporary erosion control measure fronting the subject property. The permit allowed for the placement of four fifteen-foot wide sections of SEABlankets along approximately eighty feet of shoreline that would be held in place by a 2-inch by 6-inch header board secured into the ground with earth anchors;
2. The structure extended seaward of the erosion scarp fronting the subject property and was determined to be on State-owned lands in the shoreline area;
3. The structures were authorized to remain in place for three (3) years;
4. Condition 2 of the permit reads: *It is understood that the Emergency Temporary Shoreline Protection is a temporary response to address a safety hazard to the existing single-family residence on the subject property, which is threatened by both chronic and seasonal beach erosion. The material is authorized as a temporary erosion control measure for three (3) years from the date of issuance of this letter. Subsequent erosion control efforts that call for modification, other than maintenance*

Exhibit 1

of the proposed structure will require a new application. At the end of 3 years the materials shall be removed;

5. The authorization expired on July 3, 2020;
6. OCCL staff conducted a site visit on May 25, 2021 and observed that the erosion control materials remained on State Land, and that new materials, including rocks, appear to have been placed seaward of the subject property. A photograph from this May 25, 2021 site visit can be found below as *Figure 1*;
7. OCCL has not authorized any plans to modify the structure, place additional materials, nor to extend the authorization;
8. Condition 4 of the permit reads: *The permittee shall contact DLNR Land Division at (808) 587-0430 and secure a Right of Entry Permit incorporating the most current terms and conditions for the use of State lands, prior to entering onto State lands for this project;*
9. Our records and research indicate that the Right of Entry expired on July 18, 2018;
10. Condition 14 of the permit reads: *Transfer of ownership of the subject property includes the responsibility of the new owner to adhere to the terms and conditions of this authorization;*
11. Condition 28 of the permit reads: *Failure to comply with any of these conditions shall render a permit void under the chapter, as determined by the Chairperson or BLNR.*



Figure 1: Aerial Image of Subject Property, Taken May 25, 2021

DISCUSSION

Based upon the above, it appears that the subject erosion control structures no longer comply with the terms and conditions of Emergency CDUP OA 17-32.

2

Exhibit 1

Further, the emergency situation for which the structure was originally authorized has existed over an extended period of time and appears likely to continue over an indefinite timeframe such that we now consider the situation an unmanaged hazardous condition. If you apply for a new emergency authorization, you will be required to demonstrate that a concerted effort is being undertaken to develop and implement a long-term solution which will enable removal of the temporary erosion control measures.

For the purposes of such a requirement, "concerted effort" shall mean a bona fide planning effort involving the employment of professional planners, engineers, or consultants to develop and implement a long-term solution whether it involves relocation or abandonment, beach restoration, or some other form of shoreline management. A surety bond or other legal or financial assurance may also be required as part of any potential authorizations for a time extension to guarantee removal of temporary uses at the expiration of any permitted time extension that may be authorized.

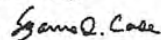
To summarize, the emergency authorization has expired, and the structure authorized under Emergency CDUP OA 17-32 is no longer in compliance nor has active authorization to sit upon State-owned lands.

Please provide this office with a written report which describes how you intend to correct the situation. The report should be submitted to DLNR's Office of Conservation and Coastal Lands (OCCL) within thirty days of the date of this letter. The report shall describe the current condition of the structure, how the structure has been altered over time, and the plans and intentions of the structure in the near future. The plans for the future of the structure could include, but are not limited to, how and when you will either remove the structure in its entirety, if and when you will seek another emergency authorization, and/or how you plan to return the noncompliant structure to its original plan design that this office approved.

Failure to act promptly on these matters may result in this matter being forwarded to the Board of Land and Natural Resources for formal enforcement action.

Please submit all responses and reports in writing to Salvatore Saluga at salvatore.j.saluga@hawaii.gov. Please note that any information provided may be used in civil proceedings.

Sincerely,



SUZANNE D. CASE Chair
Board of Land and Natural Resources

Copy: DLNR Land Division, O'ahu Office
C&C Honolulu, Dept. Planning & Permitting
DOCARE
G70, c/o Jeff Overton

attachment: Emergency CDUP OA 17-32

³
Exhibit 1



Exhibit 2: OCCL Staff Photo Taken 12/16/2021



Exhibit 2: OCCL Staff Photo Taken 9/28/2022

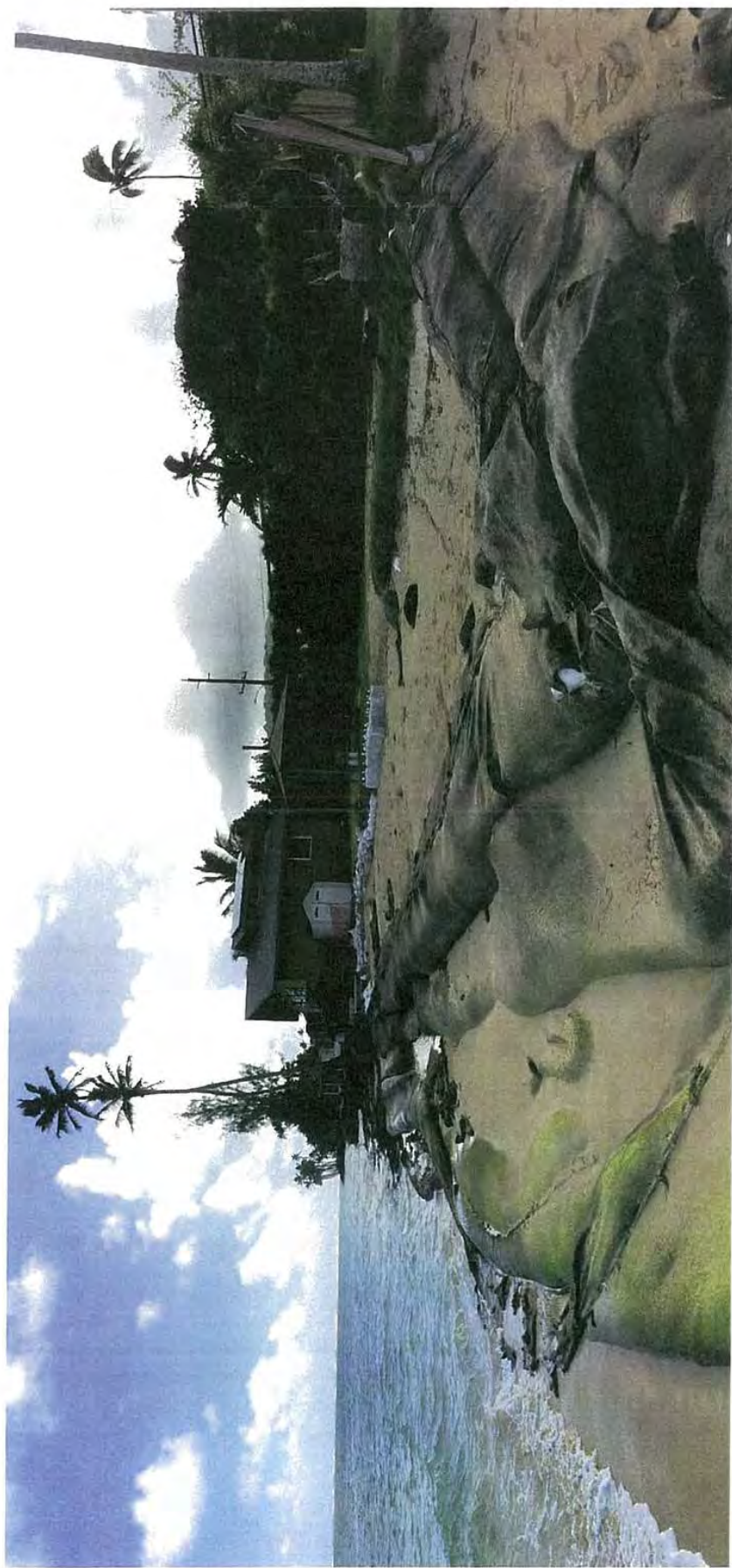


Exhibit 2: OCCL Staff Photo Taken 12/16/2021

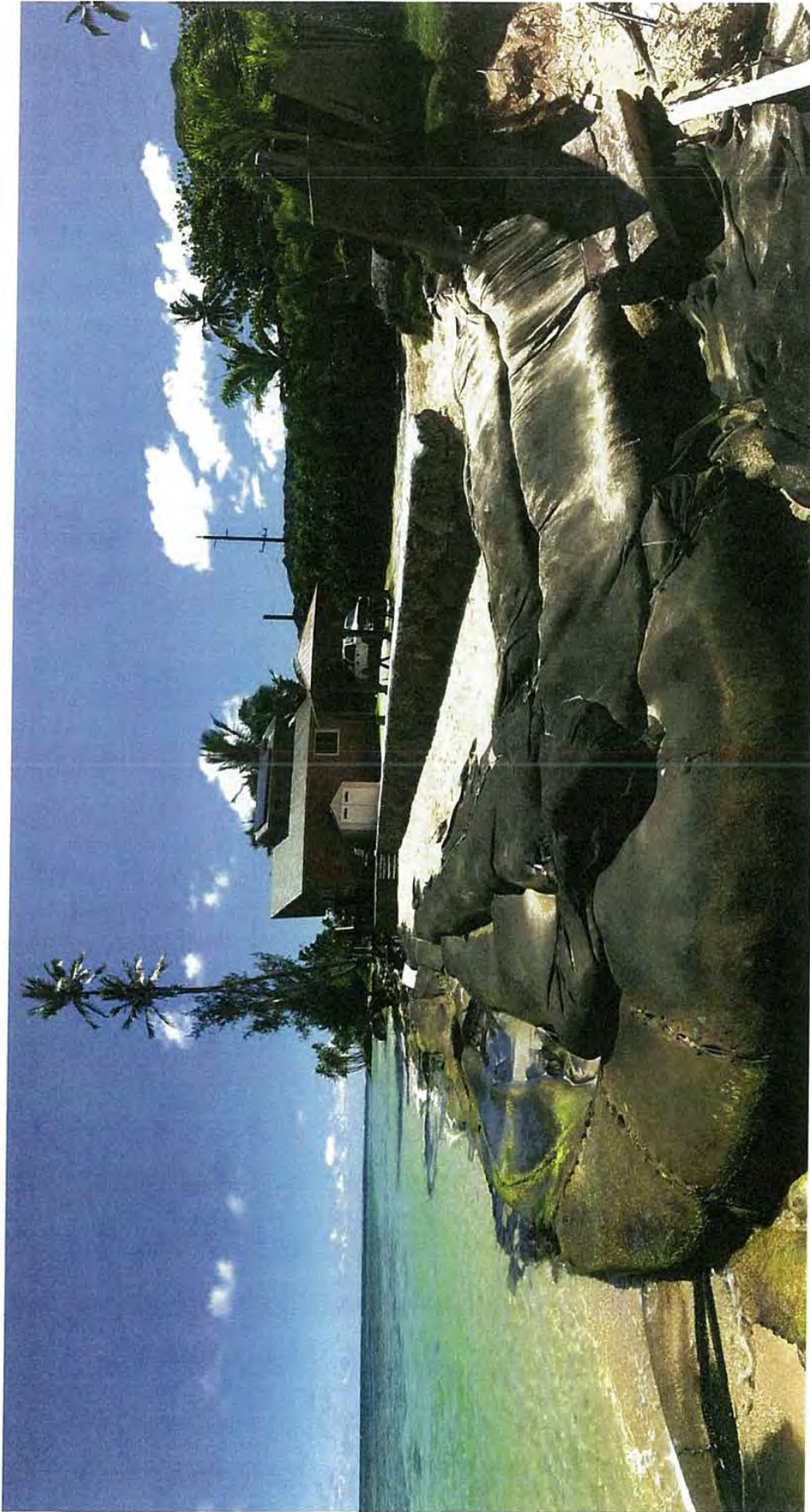


Exhibit 2: OCCL Staff Photo Taken 9/28/2022



Exhibit 2: OCCL Staff Photo Taken 12/16/2021

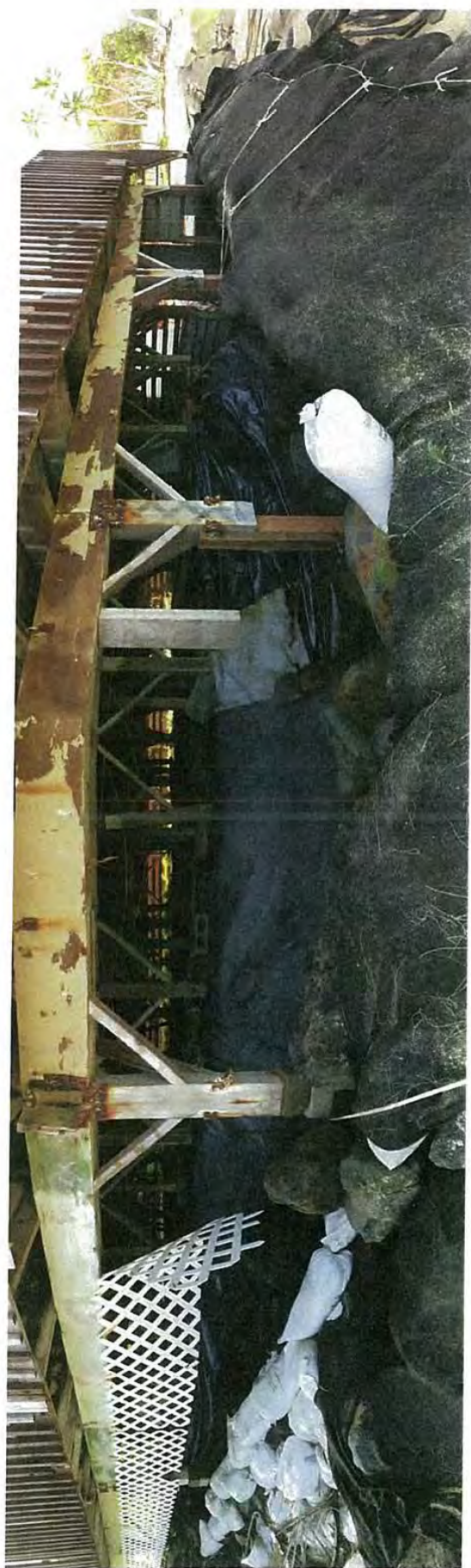


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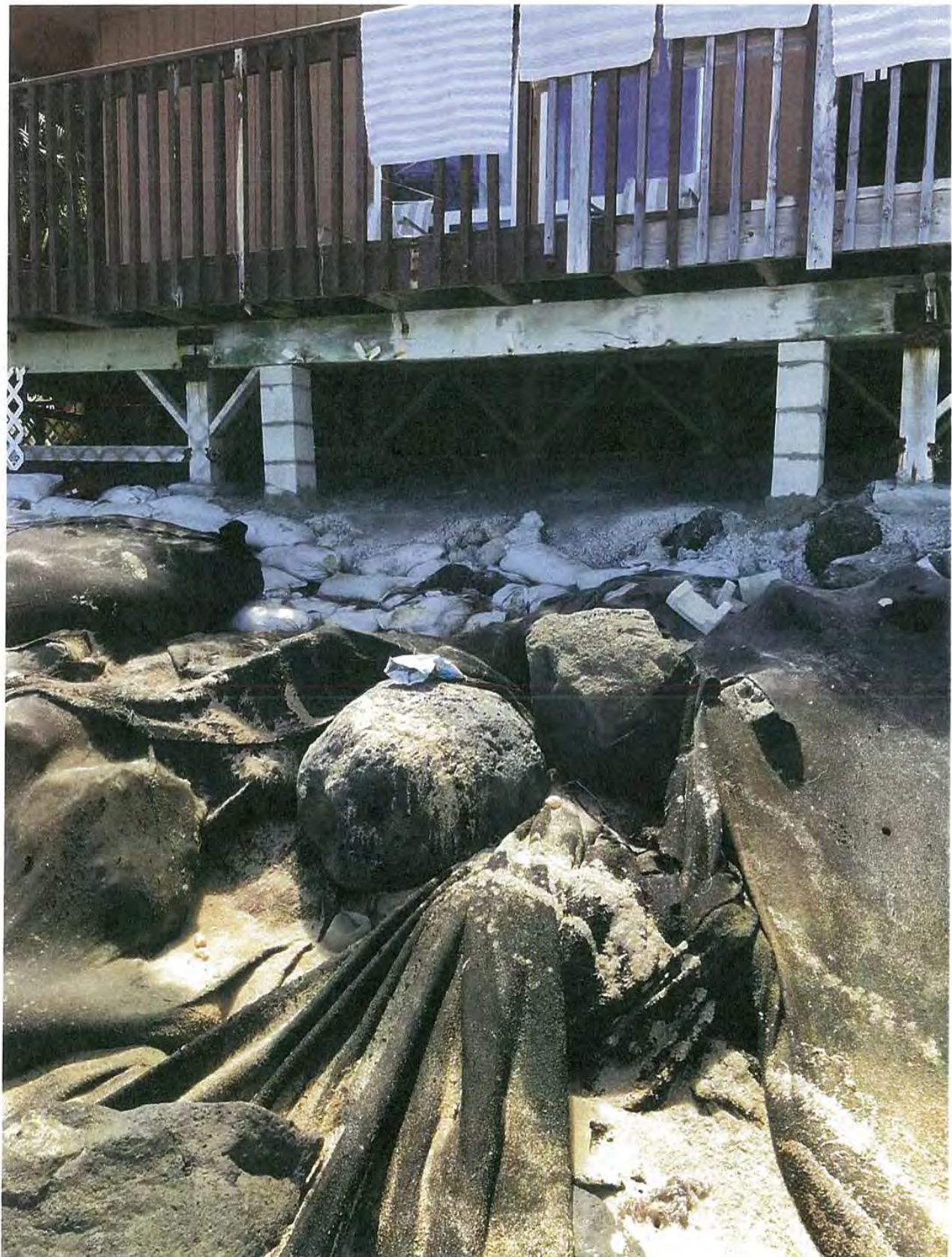


Exhibit 2: OCCL Staff Photo Taken 9/28/2022



Exhibit 2: OCCL Staff Photo Taken 12/16/2021

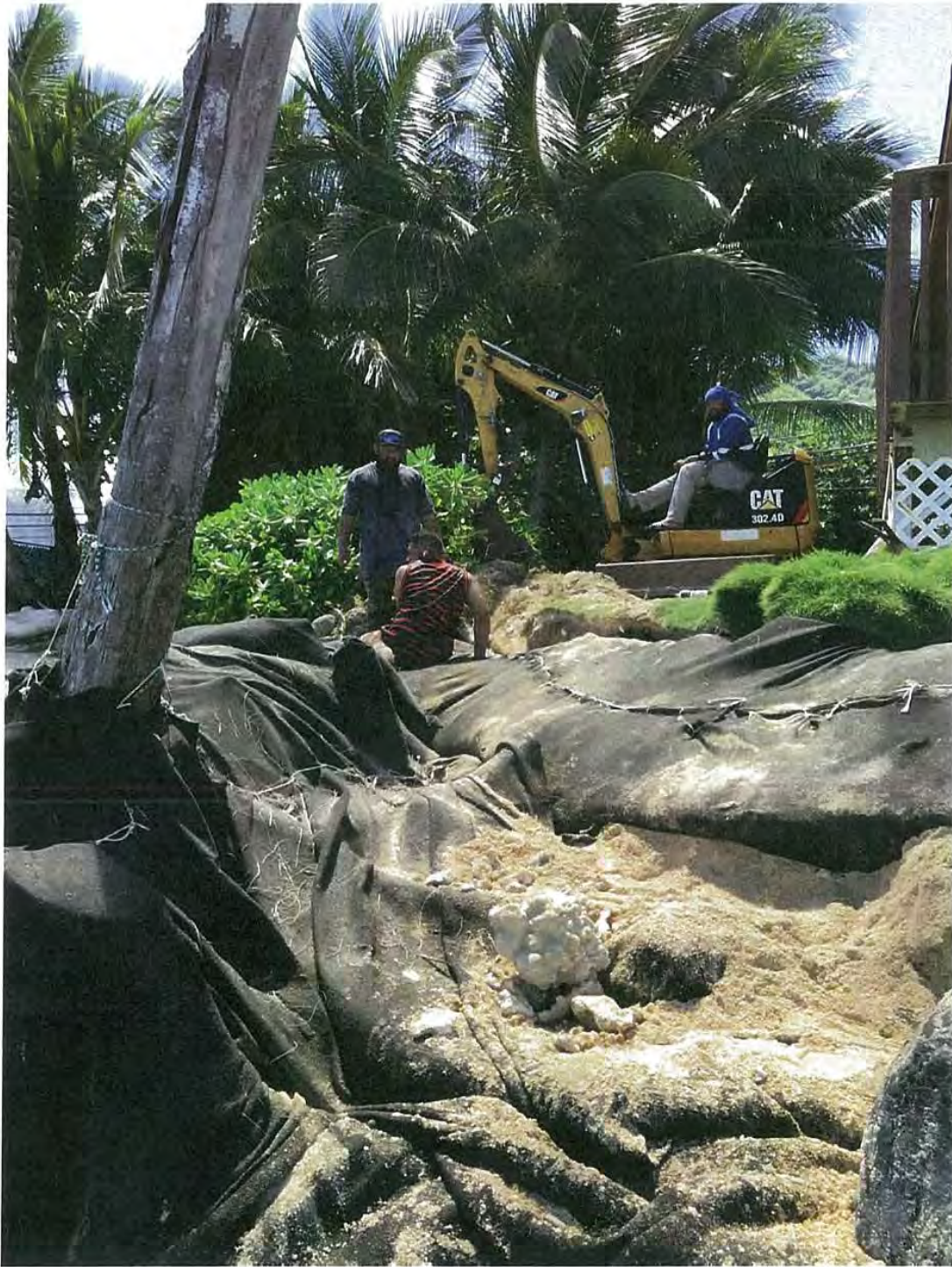


Exhibit 2: OCCL Staff Photo Taken 9/28/2022

DAVID Y. IGE
GOVERNOR OF HAWAII



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
OFFICE OF CONSERVATION AND COASTAL LANDS
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KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

REF: OCCL: TF

ENF: OA 23-14

Oct 14, 2022

Daniel K Ihara & Tiffany Young
Keller Williams Honolulu
1347 Kapiolani Blvd, 3rd Floor
Honolulu, HI 96814

SUBJECT: Alleged Unauthorized Land Use Within the Conservation District
Located at 53-239 Kamehameha Highway
Punaluu, Koolauloa, Oahu
Tax Map Key (TMK): (1) 5-3-002:041 (seaward)

Dear Mr. Ihara and Ms. Young:

It has come to the Department of Land and Natural Resources (DLNR) and its Office of Conservation and Coastal Lands' (OCCL) attention that the subject property is currently being marketed. On September 30, 2022, the Department issued the owners of TMK: (1) 5-3-002:041 a NOTICE OF ALLEGED VIOLATION regarding alleged unauthorized structures and encroachments within the shoreline (see attached). The OCCL notes that we have not received a response to the Notice to date.

We expect that you and your client are disclosing these matters to potential buyers as well as the mandatory seller disclosure for properties within the Sea Level Rise Exposure Area (SLR-XA) as required by Hawaii Revised Statutes §508D-15.

Should you have any questions regarding this matter, contact Trevor Fitzpatrick of our Office at (808) 798-6660 or trevor.j.fitzpatrick@hawaii.gov.

Sincerely,

S Michael Cain

Michael Cain, Administrator
Office of Conservation and Coastal Lands

CC: Chairperson
Oahu Board Member
Oahu Land Division Office
City and County of Honolulu, Department of Planning and Permitting

Attachment: NOTICE OF ALLEGED VIOLATION ENF: OA 23-14

Matthew J Tang Trust
3110 Huelani Drive
Honolulu, Hawaii 96822

October 20, 2022

Suzanne Case, Chair
State of Hawaii, Board of Land and Natural Resources
1151 Punchbowl St., Rm 131; P.O. Box 621
Honolulu, HI 96809-0621
Attn: Trevor Fitzpatrick, OCCL trevor.j.fitzpatrick@hawaii.gov

**Subject: Matthew J Tang Trust
Emergency Conservation District Use Permit (CDUP) OA 17-32
53-239 Kamehameha Highway, Punaluu, Oahu; Makai of TMK (1) 5-3-002:041**

Dear Chair Case and Mr. Fitzpatrick,

Thank you for letter dated September 30, 2022. We truly appreciate the patience of the State to help us address shoreline protection at our Punaluu property. The ocean currently washes under the seaward edge of our home during high wave events. Erosion threatens the structure foundation, and this required us to add support to avoid failure. Your letter requests a response to address the unauthorized materials placed to protect the home from further shoreline erosion. We are removing the CRM wall in compliance with the order. The winter high wave season has started, and the geotextile fabric apron must be retained for some limited protection.

The future for this property necessitates reauthorized emergency protection as we continue our effort to implement a long-term solution. The DPP denial of the variance in 2019 specifically indicated that our home could continue to obtain emergency protection from BLNR. We respectfully request your cooperation in allowing for our family to maintain emergency authorization to protect the property in the near term. Removal of the geotextile protection will coincide with the construction of approved new emergency protection.

We have ongoing plans for the construction of a sloping rock revetment along the frontage of this property, enabling us to stabilize our shoreline and prevent the State Highway from erosion threat. There is a pending contested case hearing with the City and County of Honolulu Department of Planning and Permitting which we anticipate will reverse the decision to deny the shoreline variance in 2019. After three years of work and expense, we have no idea why the City has failed to hold a fair review hearing for variance reconsideration. The variance and revetment would have allowed our home to be protected in a similar fashion to the 38 homes along the adjacent Makalii Point, all of which enjoy boulder stack protection. There is a supplemental pilot plan being developed with the neighbors for beach nourishment and sandbag groins along this section of the coast.

We are engaged with G70 planners and environmental consultants to address the planning and permitting requirements. A range of short-term and long-term solutions are being studied, including stabilization of the shoreline, adjustments to the residential structure, and beach augmentation. Mahalo for your understanding and support in this very difficult situation. Please contact me at 808-256-4268 hawaiiantiger1@yahoo.com We ask for you to please provide a copy of correspondence to our planner Jeff Overton jeff@g70.design.

Aloha,



Matthew Tang

OCTOBER 20, 2021

DEAR CHAIR, CASE AND MR. FITZPATRICK,

I AM TRULY SORRY FOR CONSTRUCTING A CRM WALL. I WAS TOLD BY MY CONTRACTOR THAT I CAN LEGALLY BUILD A WALL ON MY PROPERTY UNDER 36 INCHES HIGH. HE ALSO TOLD ME HE WILL GET A PERMIT FOR ALL THE WORK BEING DONE. I WAS FOOLISH TO BELIEVE HIM AND NOW HE DOESN'T ANSWER MY PHONE CALLS, LEAVING ME IN THIS PREDICAMENT.

I AM CURRENTLY HIRING SOMEONE TO DEMOLISH THE CRM WALL. IT SHOULD BE DONE IN NOVEMBER. DEPENDING ON HIS SCHEDULE.

SINCERELY
MATTHEW TANG
(808) 256-4268

DEPT. OF LAND & NATURAL RESOURCES
STATE OF HAWAII
RECEIVED
2022 OCT 24 AM 8:16

RECEIVED
OFFICE OF CONSERVATION
AND COASTAL LANDS
2022 OCT 25 A 10:52
DEPT. OF LAND & NATURAL RESOURCES
STATE OF HAWAII

DAVID Y. IGE
GOVERNOR OF HAWAII



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
OFFICE OF CONSERVATION AND COASTAL LANDS
POST OFFICE BOX 621
HONOLULU, HAWAII 96809

SUZANNE D. CASE
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

ROBERT K. MASUDA
FIRST DEPUTY

M. KALEO MANUEL
DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES
BOATING AND OCEAN RECREATION
BUREAU OF CONVEYANCES
COMMISSION ON WATER RESOURCE MANAGEMENT
CONSERVATION AND COASTAL LANDS
CONSERVATION AND RESOURCES ENFORCEMENT
ENGINEERING
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

REF: OCCL: TF

ENF: OA 23-14

Nov 1, 2022

MATTHEW J TANG TRUST
Matthew J Tang, Trustee
3110 Huelani Drive
Honolulu, HI 96822

SUBJECT: Alleged Unauthorized Land Use Within the Conservation District
Located at 53-239 Kamehameha Highway
Punaluu, Koolauloa, Oahu
Tax Map Key (TMK): (1) 5-3-002:041 (seaward)

Dear Landowners:

The Office of Conservation and Coastal Lands' (OCCL) has reviewed your letters dated October 20, 2022, regarding the subject matter. Your letter states that you are currently hiring someone to demolish the concrete rubble masonry (CRM) wall.

The OCCL thanks you for a timely response; however, your letter and proposal do not appear to address the unauthorized materials placed and being utilized in the shoreline area fronting the subject property. The OCCL reiterates that the noncompliant and expired temporary shoreline protection structure occupies State-owned land without active authorization and thus appears to be an alleged land use violation and encroachment.

Regarding your request for an extension or reauthorization for emergency temporary erosion control measures, we cannot extend expired permits. Further, Hawaii Administrative Rules (HAR) §13-5-6 Penalty. (c) states: *No permit shall be processed by the department or board until any violations pending against the subject parcel are resolved;* and, HAR §13-5-35 (d) states: *Repair and reconstruction of any structure or land use being investigated for possible violation of this chapter, or in situations in which fines for a violation have not been collected, shall not be processed until the violation is resolved.* It also does not appear to be consistent with Act 16 which prohibits private shoreline hardening devices along sandy beaches.

You may want to seek resolution with the County regarding pacifying threatened structures on the property.

It has also come to our attention that you are marketing the property (https://www.zillow.com/homedetails/53-239-Kamehameha-Hwy-Hauula-HI-96717/651603_zpid/). Please be advised that the Department reserves the right to pursue potential enforcement actions

against the current and any potential future owner of parcel 041 regarding the alleged violations and encroachments on State-owned land. We expect that you and your agent(s) are disclosing these matters to potential buyers as well as the mandatory seller disclosure for properties within the Sea Level Rise Exposure Area (SLR-XA) as required by Hawaii Revised Statutes §508D-15.

Please respond to this letter in writing within ten (10) days regarding how you propose to resolve these matters. Please note any information provided may be used in civil proceedings. If we do not receive a response and you do not remove the unauthorized materials and encroachments within ten (10) days, we may bring this matter before the Board of Land and Natural Resources for final disposition.

Should you have any questions regarding this matter, contact Trevor Fitzpatrick of our Office at trevor.j.fitzpatrick@hawaii.gov.

Sincerely,



(For)

Michael Cain, Administrator
Office of Conservation and Coastal Lands

CC: *Chairperson*
Oahu Board Member
Oahu Land Division Office
DCCA – Regulated Industries Complaints Office
City and County of Honolulu, Department of Planning and Permitting
G70 – Attn: Jeff Overton
Keller Williams Honolulu RB
Attn: Daniel K Ihara & Tiffany Young (1347 Kapiolani Blvd, 3rd Floor, Honolulu, HI 96814)

re VIO OA-23-14

Matthew J Tang Trust
3110 Huelani Drive
Honolulu, Hawaii 96822

2022 NOV 14 A 9:44

November 8, 2022

Suzanne Case, Chair
State of Hawaii, Board of Land and Natural Resources
1151 Punchbowl St., Rm 131; P.O. Box 621
Honolulu, HI 96809-0621
Attn: Trevor Fitzpatrick, OCCL trevor.j.fitzpatrick@hawaii.gov

**Subject: Matthew J Tang Trust
Emergency Conservation District Use Permit (CDUP) OA 17-32
53-239 Kamehameha Highway, Punalu'u, O'ahu; Makai of TMK (1) 5-3-002:041**

Dear Chair Case and Mr. Fitzpatrick,

Thank you for letter dated November 1, 2022. We truly appreciate the patience of the State to help us address shoreline protection at our Punalu'u property.


Your letter requires the removal of unauthorized materials placed in the State jurisdiction to protect the home from further shoreline erosion. We are in the process of removing the CRM wall and concrete stairway footing in compliance with the order. Attached is a photograph of the subject structures. The removal work is contracted for completion on 14-15 Nov 2022. We will provide follow-up photograph evidence to DLNR documenting the removal of these materials.

Our plan of action for the future of the home involves an adaptive resilient response in concert with your policy for retreat from eroding shorelines. We will be moving the house approximately 25 feet inland to the maximum extent allowed on this property. However, the winter high wave season is underway, and the geotextile fabric apron must be retained for some limited shoreline protection until the house is moved.

Further, we are working closely with the City and County of Honolulu Dept of Planning and Permitting regarding the relocation of the home. Our expectation is that the residence will be relocated on-site within the 30 to 45 days, at which time the remaining geotextile materials will be removed completely from the State jurisdiction. We respectfully request your cooperation in allowing for our family to maintain emergency authorization to protect the property in the near term, while we act judiciously to comply with your requirements.

Mahalo for your understanding and support in this very difficult situation. Please contact me at 808-256-4268 hawaiiantiger1@yahoo.com We ask for you to please provide a copy of correspondence to our planner Jeff Overton jeff@g70.design.

Aloha,

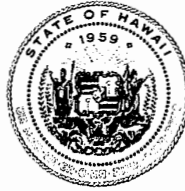


Matthew Tang



Exhibit 2: OCCL Staff Photo Taken 9/28/2022

DAVID Y. IGE
GOVERNOR OF HAWAII



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
OFFICE OF CONSERVATION AND COASTAL LANDS
POST OFFICE BOX 621
HONOLULU, HAWAII 96809

SUZANNE D. CASE
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

ROBERT K. MASUDA
FIRST DEPUTY

M. KALEO MANUEL
DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES
BOATING AND OCEAN RECREATION
BUREAU OF CONVEYANCES
COMMISSION ON WATER RESOURCE MANAGEMENT
CONSERVATION AND COASTAL LANDS
CONSERVATION AND RESOURCES ENFORCEMENT
ENGINEERING
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

REF: OCCL: TF

ENF: OA 23-14

Dec 6, 2022

MATTHEW J TANG TRUST
Matthew J Tang, Trustee
3110 Huelani Drive
Honolulu, HI 96822

SUBJECT: Alleged Unauthorized Land Use Within the Conservation District
Located at 53-239 Kamehameha Highway
Punaluu, Koolauloa, Oahu
Tax Map Key (TMK): (1) 5-3-002:041 (seaward)

Dear Landowners:

The Office of Conservation and Coastal Lands' (OCCL) has reviewed your letter dated November 8, 2022, regarding the subject matter. Your letter states that you are in the process of removing the concrete rubble masonry (CRM) wall as well as the concrete stairway footing, and that you will provide photographic evidence of removal of these structures to OCCL which are anticipated to be removed by November 14 or 15, 2022. Additionally, you state that you are working with the City and County of Honolulu Department of Planning and Permitting (DPP) to move the house approximately 25ft inland and that you anticipate re-locating the residence on-site within 30-45 days of your letter (by approximately December 8-23, 2022). Your letter concludes that you are requesting that the expired temporary erosion control structure be allowed to remain in place.

The OCCL notes that your letter does not appear to resolve the alleged violation(s). We cannot extend expired permits, nor can we entertain any applications for repairs or reconstruction of any structure or land uses being investigated for possible violation of Hawaii Administrative Rules (HAR) Chapter 13-5.

The OCCL also notes that your letter does not address the unauthorized materials placed within the shoreline area such as, but not limited to, rocks/boulders, small polypropylene sandbags, and the concrete pad that was poured under the lanai which now appears to be makai of the shoreline. The expired and unauthorized temporary erosion control is in a dilapidated state with loose debris emanating from the structure consisting of, but not

limited to, erosion control blankets that are posing nuisance to nearshore waters. The debris as well as the alleged unauthorized temporary erosion control structure also appear to be blocking lateral shoreline access.

The OCCL reiterates that we may bring this matter before the Board of Land and Natural Resources for final disposition.

Should you have any questions regarding this matter, contact Trevor Fitzpatrick of our Office at trevor.j.fitzpatrick@hawaii.gov.

Sincerely,

S Michael Cain

Michael Cain, Administrator
Office of Conservation and Coastal Lands

CC: *Chairperson
Oahu Board Member
Oahu Land Division Office
DCCA – Regulated Industries Complaints Office
City and County of Honolulu, Department of Planning and Permitting
G70 – Attn: Jeff Overton
Keller Williams Honolulu RB
Attn: Daniel K Ihara & Tiffany Young (1347 Kapiolani Blvd, 3rd Floor,
Honolulu, HI 96814)*

12/13/22

HELLO MR FITZPATRICK,

SORRY FOR THE DELAY IN MY RESPONSES BUT I WAS HOPING THAT I WOULD HAVE MORE INFORMATION ON OUR PROGRESS. TO SHARE WITH YOU.

ON NOVEMBER 15 THE CRW WALL WAS REMOVED FROM THE PROPERTY FRONTING THE SHORELINE. I HAVE RETAINED TEDDY ASUNCION (808) 348-4293 WITH THE HELP OF JEFF OVERTON TO DRAFT AND OBTAIN PERMITS TO RETREAT THE HOME CLOSER TO THE HIGHWAY.

WE ARE IN COMMUNICATION WITH THE STATE/CITY TO OBTAIN A VARIANCE TO MOVE THE HOME INTO THE 25 FOOT SET BACK FROM KAMEHAMEHA HIGHWAY, WHICH IS MAKING IT CHALLENGING FOR US. THANK YOU FOR YOUR TIME.

SINCERELY,

MATTHEW TANG







JOSH GREEN, M.D.
GOVERNOR | KE KIA'ĀINA
SYLVIA LUKE
LIEUTENANT GOVERNOR | KA HOPE KIA'ĀINA



STATE OF HAWAII | KA MOKU'ĀINA 'O HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
Office of Conservation and Coastal Lands
P.O. BOX 621
HONOLULU, HAWAII 96809

SUZANNE D. CASE
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE
MANAGEMENT
M. KALEO MANUEL
DEPUTY DIRECTOR - WATER
AQUATIC RESOURCES
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CONSERVATION AND RESOURCES
ENFORCEMENT
ENGINEERING
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

REF: OCCL: TF

ENF: OA 23-14

Dec 20, 2022

MATTHEW J TANG TRUST
Matthew J Tang, Trustee
3110 Huelani Drive
Honolulu, HI 96822

SUBJECT: Alleged Unauthorized Land Use Within the Conservation District
Located at 53-239 Kamehameha Highway
Punaluu, Koolauloa, Oahu
Tax Map Key (TMK): (1) 5-3-002:041 (seaward)

Dear Landowners:

The Office of Conservation and Coastal Lands' (OCCL) has reviewed your email and attachments dated December 13, 2022, regarding the subject matter. Your letter states that you removed the concrete rubble masonry (CRM) wall from the shoreline area fronting the subject property on November 15, 2022. Photos of the area where the CRM wall was removed were attached to your email. Additionally, your letter notes that you and your agents are in communication with the State and City and County of Honolulu to obtain a variance to retreat the home closer to Kamehameha Highway.

We thank you for your compliance in removing the CRM wall; however, the OCCL notes that your letter does not appear to resolve all of the alleged violations in that it does not address the unauthorized materials placed within the shoreline area such as, but not limited to, rocks/boulders, small polypropylene sandbags, and the concrete pad that was poured under the lanai which appears to be makai of the shoreline.

Pursuant to Hawaii Revised Statutes (HRS) §508D-15, you and your agents are required to provide potential buyers the mandatory seller disclosure for properties within the Sea Level Rise Exposure Area (SLR-XA). A flyer offering guidance for the disclosure statement can be viewed at climate.hawaii.gov under "[STATE SEA LEVEL RISE RESOURCES](#)". We expect that you are providing your realtors with our letters and

disclosing these matters to potential buyers as we are receiving a significant number of inquiries regarding the subject property.

We have received several letters and emails from you and your agents. Please clarify who the point of contact will be regarding these matters to ensure that the Department and staff are receiving a clear and consistent message from you or your agents.

The OCCL reiterates that we may bring this matter before the Board of Land and Natural Resources for final disposition.

Should you have any questions regarding this matter, contact Trevor Fitzpatrick of our Office at trevor.j.fitzpatrick@hawaii.gov.

Sincerely,

S Michael Cain

Michael Cain, Administrator
Office of Conservation and Coastal Lands

CC: Chairperson
Oahu Board Member
Oahu Land Division Office
City and County of Honolulu, Department of Planning and Permitting
G70 – Attn: Jeff Overton
Keller Williams Honolulu RB
Attn: Daniel K Ihara & Tiffany Young (1347 Kapiolani Blvd, 3rd Floor,
Honolulu, HI 96814)

Fitzpatrick, Trevor J

From: Tiffany Young <tiffanyy@iharateam.com>
Sent: Thursday, January 5, 2023 11:03 AM
To: Fitzpatrick, Trevor J
Cc: hawaiiantiger1@yahoo.com; Dan Ihara
Subject: [EXTERNAL] 53-239 Kamehameha Hwy

Hi Trevor,

This email is to confirm that Keller Williams, myself and Dan Ihara have been in receipt of all the OCCL Letters sent to us and the owner.

We are disclosing all alleged violations as well as sea level rise exposure as required by law to any interested party.

Many are asking what the current fines are for this property. To my knowledge there are no fines yet. Can you help me understand when/how fines start to accrue? If the owner removes the remaining violations, does it satisfy the OCCL/DLNR and will he be exempt from any fines?

Thank you for your time.

Best Regards,

Tiffany



JANUARY 9, 23

HELLO MR FITZPATRICK.

WE ARE CONTINUING TO WORK ON THE PERMIT TO RETREAT MY HOME CLOSER TO KAMEHAMEHA HIGHWAY. THE PROCESS IS MOVING FORWARD THOUGH NOT AS QUICKLY AS I EXPECTED AND MAYBE THE HOLIDAYS SLOWED IT A BIT MORE.

IF THE DLNR CAN GIVE ME SOME TIME TO ACCOMPLISH WHAT I AM TRYING TO DO I WOULD GREATLY APPRECIATE IT. IF THE ITEMS OF DISCREPANCY FRONTING MY SHORELINE ARE REMOVED NOW, I WILL SURELY LOOSE MY HOME. THIS IS NOT WHAT I WANT TO HAPPEN. THERE WILL NO BENEFIT IF MY HOME WAS IN THE WATER, ONLY MORE SHORELINE POLLUTION.

THANK YOU FOR YOUR TIME.

SINCERELY,

MATTHEW TANG

RECEIVED
OFFICE OF CONSERVATION
AND COASTAL LANDS
2023 JAN 17 P 1:17
DEPT. OF LAND &
NATURAL RESOURCES
STATE OF HAWAII

JOSH GREEN, M.D.
GOVERNOR | KE KIA'ĀINA

SYLVIA LUKE
LIEUTENANT GOVERNOR | KA HOPE KIA'ĀINA



STATE OF HAWAII | KA MOKU'ĀINA 'O HAWAI'I
DEPARTMENT OF LAND AND NATURAL RESOURCES
Office of Conservation and Coastal Lands

P.O. BOX 621
HONOLULU, HAWAII 96809

Dawn N. S. CHANG
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE
MANAGEMENT

FIRST DEPUTY

M. KALEO MANUEL
DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES
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FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

REF: OCCL: TF

ENF: OA 23-14

Jan 10, 2023

MATTHEW J TANG TRUST
Matthew J Tang, Trustee
3110 Huelani Drive
Honolulu, HI 96822

SUBJECT: Alleged Unauthorized Land Use Within the Conservation District
Located at 53-239 Kamehameha Highway
Punaluu, Koolauloa, Oahu
Tax Map Key (TMK): (1) 5-3-002:041 (seaward)

Dear Landowners:

The Office of Conservation and Coastal Lands' (OCCL) has reviewed your email and attachments dated January 9, 2023, regarding the subject matter. The OCCL has also reviewed your realtor's email dated January 5, 2023, regarding the subject matter.

According to your email dated January 9, 2023, you are requesting to keep the expired and alleged unauthorized erosion control materials (such as but not limited to geotextile blankets and burritos, rocks/boulders, small polypropylene sandbags, and the concrete pad that was poured under the lanai) while you work on the permit with the County to retreat the home landward on the parcel. According to your realtor's email dated January 5, 2023, your realtors have questions regarding the accrual of fines regarding the alleged violations as well as if the removal of the remaining alleged unauthorized materials will satisfy the Department and exempt you/the landowner of parcel 041 from any fines.

The OCCL notes that we have and continue to receive letters and emails from you and your agents regarding these matters. Staff had previously requested that you clarify who the point of contact would be regarding these matters to ensure that the Department and staff are receiving a clear and consistent message from you and your agents. Based on your and your realtor's emails, it is unclear what you are proposing.

REF: OCCL: TF
MATTHEM J TANG TRUST

ENF: OA 23-14

The OCCL reiterates that we cannot extend expired permits nor allow the continued occupation and utilization of the alleged unauthorized materials and encroachments on State-owned land in the shoreline area fronting the subject parcel. Further, it appears that the property is continuing to be actively marketed. The OCCL has received several inquiries regarding the alleged violations and enforcement case (ENF: OA 23-14).

The OCCL intends to schedule this matter before the Board of Land and Natural Resources (BLNR) for final disposition. You will be notified of the date, time, and place/forum for this BLNR meeting in the future.

Should you have any questions regarding this matter, contact Trevor Fitzpatrick of our Office at trevor.j.fitzpatrick@hawaii.gov.

Sincerely,

S Michael Cain

Michael Cain, Administrator
Office of Conservation and Coastal Lands

CC: *Oahu Board Member
Oahu Land Division Office
City and County of Honolulu, Department of Planning and Permitting
G70 – Attn: Jeff Overton
Keller Williams Honolulu RB
Attn: Daniel K Ihara & Tiffany Young (1347 Kapiolani Blvd, 3rd Floor,
Honolulu, HI 96814)*